United Nations

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

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Chapter I
Introduction

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 55/156 of 12 December 2000 and met at United Nations Headquarters from 2 to 12 April 2001.

2. In accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995, the Special Committee was open to all States Members of the United Nations.

3. On behalf of the Secretary-General, the session was opened by the Under-Secretary-General for Legal Affairs, the Legal Counsel, Hans Corell.

4. The Director of the Codification Division of the Office of Legal Affairs, Václav Mikulka, acted as Secretary of the Special Committee. The Deputy Director of the Division, Manuel Rama-Montaldo, acted as Deputy Secretary of the Special Committee and Secretary to its Working Group. Serguei Tarassenko (Senior Legal Officer), Vladimir Rudnistky, Trevor Chimimba, Renan Villacis (Legal Officers) and Samira Moussayeva (Associate Legal Officer) of the Codification Division acted as Assistant Secretaries of the Special Committee and its Working Group.

5. At its 236th meeting, on 2 April 2001, the Special Committee, bearing in mind the terms of the agreement regarding the election of the officers reached at its session in 1981[1] and taking into account the results of the pre-session consultations among its Member States, elected its Bureau, as follows:

Chairman:
Mirza Cristina Gnecco (Colombia)

Vice-Chairpersons:
Ferry Adamhar (Indonesia)
Gocha Lordkipanidze (Georgia)
Koffi Gaston Yao (Côte d'Ivoire)

Rapporteur:
Teoman Mustafa Uykur (Turkey)

6. The Bureau of the Special Committee also served as the Bureau of the Working Group.

7. Also at its 236th meeting, the Special Committee adopted the following agenda (A/AC.182/L.109):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the questions mentioned in General Assembly resolution 55/156 of 12 December 2000, in accordance with the mandate of the Special Committee as set out in that resolution.
6. Adoption of the report.

8. At the same meeting, the Special Committee established a Working Group of the Whole, and at its 237th meeting, on 2 April, it agreed on the following organization of work: proposals relating to the maintenance of international peace and security (eight meetings); proposals regarding the peaceful settlement of disputes between States (three meetings); proposals concerning the Trusteeship Council (one meeting); proposals on the ways and means of improving working methods of the Committee and the question of the identification of new subjects (three meetings); and the consideration and adoption of the report (two meetings). The distribution of meetings would be applied with the necessary degree of flexibility, taking into account the progress achieved in the consideration of the items.

9. General statements touching upon all items or upon several of them were made at the 236th meeting as well as prior to the consideration of each of the specific items in the Working Group. The substance of those general statements is reflected in the relevant sections of the present report.

10. With regard to the question of the maintenance of international peace and security, the Special Committee had before it the report of the Secretary-General entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/55/295 and Add.1), a revised working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation" (A/AC.182/L.100/Rev.1);[2] a working paper submitted by the Russian Federation at the 1998 session of the Committee, entitled "Basic conditions and criteria for the introduction of sanctions

and other coercive measures and their implementation" (A/AC.182/L.100);[3] a working paper submitted by the Libyan Arab Jamahiriya at the current session of the Special Committee, on the strengthening of certain principles concerning the impact and application of sanctions (A/AC.182/L.110 and Corr.1; see para. 116 below); an informal working paper submitted by the Russian Federation at the 1997 session of the Committee, entitled "Some views on the importance of and urgent need for the elaboration of a draft declaration on the basic principles and criteria for the work of United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts" (A/AC.182/L.89/Add.1);[4] a working paper also submitted by the Russian Federation at the 1998 session of the Special Committee, entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" (A/AC.182/L.89/Add.2 and Corr.1);[5] a working paper submitted by the delegation of Cuba at the 1998 session of the Special Committee, entitled "Strengthening of the role of the Organization and enhancing its effectiveness" (A/AC.182/L.93/Add.1);[6] a revised proposal also submitted at the 1998 session by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (A/AC.182/L.99);[7] a working paper submitted at the 1999 session of the Special Committee by Belarus and the Russian Federation containing a draft resolution of the General Assembly and a revision thereof (A/AC.182/L.104/Rev.1);[8] and a revised working paper submitted at the current session of the Special Committee by Belarus and the Russian Federation containing a revised version of a draft resolution of the General Assembly (A/AC.182/L.104/Rev.2; see para. 178 below).

11. With regard to the topic "Peaceful settlement of disputes between States", the Special Committee had before it a revised proposal entitled "Establishment of a dispute prevention and early settlement service" (A/AC.182/L.96), submitted by Sierra Leone at the 1997 session of the Special Committee and orally revised at the 1998 session,[9] an informal paper entitled "Elements for a resolution on dispute prevention and settlement", submitted by the United Kingdom of Great Britain and Northern Ireland at the 1999 session of the Special Committee;[10] a further revised draft resolution on dispute prevention and settlement submitted by Sierra Leone and the United Kingdom of Great Britain and Northern Ireland at the current session of the Special Committee (A/AC.182/L.111), as well as a revised version of that document (A/AC.182/L.111/Rev.1) (see paras. 189 and 231 below).

12. With regard to the topic "Working methods of the Special Committee", the Special Committee had before it a working paper submitted by the delegation of Japan entitled "Ways and means of improving the working methods and enhancing the efficiency of the Special Committee" (A/AC.182/L.107);[11] and a proposal submitted also by the delegation of Japan, entitled "Proposal submitted by Japan on ways and means of improving the working methods and enhancing the efficiency of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/AC.182/L.108).[12]

13. The Special Committee also had before it an informal paper prepared by the Secretariat, entitled "Mechanisms established by the General Assembly in the context of dispute prevention and settlement" (A/AC.182/2000/INF.2).

14. At its 238th and 239th meetings, on 11 and 12 April, the Special Committee adopted the report of its 2001 session.

Chapter II
Recommendations of the Special Committee

15. The Special Committee submits to the General Assembly:

(a) As regards the question of the maintenance of international peace and security, in particular, the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, the recommendations contained in paragraphs 57 and 58 below;

(b) As regards the question of the maintenance of international peace and security, in particular, the strengthening of the role of the Organization and enhancing its effectiveness, the recommendations contained in paragraphs 166 and 167 below;

(c) As regards the question of assistance to working groups on the revitalization of the work of the United Nations and coordination between the Special Committee and other working groups dealing with the reform of the Organization, the recommendation contained in paragraph 307 below.

Chapter III
Maintenance of international peace and security

A. Implementation of Charter provisions related to assistance to third States affected by sanctions

16. In the course of the general exchange of views held at the 236th meeting of the Special Committee, some delegations indicated that little headway had been achieved on the topic, despite the fact that it had been on the agenda of the Special Committee for several years. Nonetheless, it was also stated that the topic should continue to be given priority.

17. Delegations stressed that every effort should be made to minimize any negative impact on third States from measures adopted under Chapter VII of the Charter. Given the complexity of that endeavour, the point was made that coordinated actions were required, at both the regional and the global level.

18. The view was expressed that every effort should be made to minimize any negative impact on the target State from measures adopted under Chapter VII of the Charter. Some delegations expressed the view that a negative impact on the target State was unavoidable.

19. The view was expressed that third States had endured great hardship as a result of the imposition of sanctions, that the Charter had never sought such negative consequences upon third States to remain unattended and yet Article 50 had not been implemented. In that regard it was stated that an urgent and permanent solution was required.

20. Some delegations expressed support for the establishment of a mechanism to address the special economic problems confronted by third States; it was said that such a mechanism would require the delimitation of the institutional responsibility of the Security Council. The view was also expressed that the Security Council could hold meetings with third States affected by the imposition of sanctions. Reference was furthermore made to the proposal of the Movement of Non-Aligned Countries to establish a trust fund for assistance to third States.

21. Delegations highlighted the importance of the valuable recommendations and main findings of the ad hoc expert group meeting, held in New York from 24 to 26 June 1998, concerning the development of a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures and the exploration of innovative and practical measures of international assistance that could be provided to those third States, which had been summarized in the report of the Secretary-General on the topic (A/53/312). Delegations stated that the recommendations and proposals contained therein constituted a useful basis for the consideration of measures aimed at minimizing the negative impact of sanctions upon third States as well as upon vulnerable groups, in the target States.

22. Some delegations favoured undertaking an in-depth discussion of the recommendations of the ad hoc expert group. However, other delegations were of the opinion that it would be difficult for the Special Committee to have a substantial discussion on the recommendations since many of them concerned the Secretariat. Consequently, those delegations looked forward to receiving the views of the Secretary-General on the detailed suggestions of the experts, in particular as regards their political, financial and administrative feasibility.

23. Some delegations noted that the ad hoc expert group had also stressed the concept of burden-sharing and equitable distribution of costs, as reflected in Articles 49 and 50 of the Charter of the United Nations, in order to minimize the collateral damage and help ensure the implementation of sanctions; as well as the importance of providing practical and timely assistance to third States as a means of contributing to an effective and comprehensive approach by the international community to the issue of sanctions imposed by the Security Council; those delegations had also stressed that the cost of implementing sanctions should be viewed as the opportunity cost of a possible alternative to an international military action or a peacekeeping operation and, accordingly, that such cost should be borne on the basis of assessed contributions.

24. Delegations acknowledged the continued efforts by the Security Council to address issues related to sanctions. In that regard attention was drawn to the notes by the President of the Security Council of 29 January 1999 (S/1999/92) and of 17 April 2000 (S/2000/319). By the latter note the Security Council had established a working group to develop general recommendations on how to improve the effectiveness of sanctions. Delegations welcomed the work carried out by the working group and looked forward to its findings. Some delegations were of the view that the group should complete its work by making specific recommendations to the Security Council and that the Council should also adopt recommendations wherever possible and take the necessary steps for their implementation, as soon as possible. The hope was also expressed that the Security Council would continue to enhance the effectiveness and transparency of the sanctions committees and to streamline their working procedures.

25. The view was expressed that the issue of assistance to third States affected by the applications of sanctions could not be separated from the wider topic of the application of sanctions by the Security Council and that the latter was inextricably linked to the reform of the Council, as regards both its working methods and the increase in its membership.

26. Satisfaction was expressed at the role of the General Assembly and the Economic and Social Council in monitoring economic assistance to third States especially affected by economic problems related to sanctions, as well as the role of the Committee for Programme and Coordination.

27. Some delegations expressed the hope that the Security Council and the Secretariat would make frequent reference to the recommendations emerging from initiatives outside the framework of the United Nations on the development of targeted sanctions. In that regard, mention was made of the seminars which had been held in London in December 1998 and at Interlaken in 1998 and 1999 and of the Bonn-Berlin process of 1999-2000. Those delegations also expressed the hope that similar initiatives would follow.

28. Some delegations emphasized once again that sanctions should be imposed only as an exceptional measure once all the other peaceful methods for settling disputes had been exhausted. Consequently, sanctions should only be imposed with great caution. The point was made that clear criteria were required for the imposition of sanctions and that they should not harm civilians. A prior assessment of the potential impact of sanctions, both on the target State and on third States, was deemed necessary. Furthermore, some delegations called for refraining from the use of sanctions for political purposes, a matter which could be mitigated by establishing clear time limits when imposing sanctions.

29. Support was expressed for the so-called "smart sanctions" or targeted sanctions in order to mitigate or eliminate the undesired negative effects, in particular the humanitarian ones. Some delegations favoured the establishment of monitoring mechanisms, as well as the creation of exemptions and mechanisms for ending sanctions at an appropriate time.

30. In cases where sanctions had had a severe impact on third States, it was indicated that assistance measures should be identified, along the lines suggested by the World Food Programme and the World Bank in their contributions to the most recent report of the Secretary-General on the topic (A/55/295 and Add.1). More consultations could be encouraged between the Security Council, the sanctions committees and humanitarian organizations. It was stated that affected third States should be given the opportunity to make their views known to the respective sanctions committees at all stages of the application of sanctions and that third States should be provided advisory services and information. It was also observed that consideration could be given to analysing the particular circumstances of a State with a view to determining the scope of the impact of sanctions; that could include inspections of the affected State to determine, on a factual basis, the impact of the sanctions.

31. Some delegations appealed to other groups dealing with the issue of sanctions to ensure greater complementarities in their efforts with a view to achieving concrete results.

32. Some delegations considered that the Special Committee was called upon to fulfil the mandate given to it by the General Assembly by either adopting specific recommendations on the topic or by transmitting the results of the discussions to the relevant organs, lest the efforts carried out be considered futile.

33. The point was made that the work of the Special Committee on the topic should complement the work by the Sixth Committee at the fifty-sixth session of the General Assembly and that, to that effect, the Special Committee should recommend the establishment of a working group of the Sixth Committee, as provided for in General Assembly resolution 55/157 of 12 December 2000.

34. The question concerning the implementation of Charter provisions related to assistance to third States affected by sanctions was further considered in the Working Group.

35. Satisfaction was expressed in the Working Group for the continued consideration of the topic on a priority basis by the Special Committee, as well as for the increased number of United Nations organs that were addressing the issue, within their respective mandates. The point was made that the Special Committee needed to be more actively involved in the discussion of the issue since the progress achieved had been minimal.

36. The observation was made that the Special Committee constituted the appropriate forum to hold universal discussions on the issue, that interactions among various United Nations bodies would be helpful in the coordination of efforts to mitigate the adverse effect of sanctions upon third States and that the Special Committee could take the lead in that field.

37. Some delegations reaffirmed their support for making every effort to minimize any negative impact on third States resulting from measures adopted under Chapter VII of the Charter. It was also emphasized that the effectiveness of sanctions regimes had to be preserved. In that connection, it was stated that the frustrating lack of progress on taking concrete measures to address the concerns of third States could have consequences for the success of sanctions regimes, which relied upon the support of all States.

38. The point was made that some third States, especially developing countries, had suffered considerably from the application of sanctions and that the international community should provide financial and economic assistance to those third States. Emphasis was placed on the particular responsibility of the Security Council to act without delay in reply to the applications of States under Article 50 of the Charter and to address such hardships.

39. The view was expressed that in certain cases the Security Council had not taken action to alleviate the adverse effects of sanctions upon third States, despite the fact that the relevant data had been provided to the Council. The point was made that the implementation of the provisions of the Charter on assistance to third States affected by the application of sanctions undoubtedly required the political will of the Security Council.

40. The view was expressed that in certain cases the Security Council had not taken action to alleviate the adverse effects of sanctions upon target States, despite the fact that the relevant data had been provided to the Council.

41. It was stated that Article 50 could not be construed to be merely of a procedural nature; collectivity, which was the chief attribute of the security system established by the Charter, must also characterize the manner in which the cost of implementing sanctions was borne.

42. Some delegations voiced their support for the proposals to establish a trust fund and a permanent consultation mechanism to address the hardships resulting for third States from the imposition of sanctions.

43. Some delegations reiterated their views that the conclusions and recommendations of the ad hoc expert group meeting, summarized in the report of the Secretary-General on the topic (A/53/312), constituted a useful basis for continued discussions on the issue. Some other delegations gave their full support to those recommendations.

44. In that connection, the point was made that an analysis of those conclusions and recommendations had not met any objections from States, relevant organizations within or outside the United Nations system or from international financial institutions and that the recommendations were in line with previous reports of the Secretary-General. Furthermore, additional proposals had been put forward by States in the course of the discussions on the topic, within both the Sixth Committee and the Special Committee, proposals which underscored the balanced character of the conclusions and recommendations of the ad hoc expert group as a sufficient basis to attain consensus on the topic. According to that view, there was a growing consensus within the international community on the importance of the conclusions and recommendations of

the ad hoc expert group meeting and the Special Committee was therefore poised to embark upon their detailed consideration.

45. In support of such an endeavour, it was observed that some of the above-mentioned practical recommendations or similar ideas had received support from the General Assembly, had been received favourably by a wide number of States, had already been proposed by the Secretary-General in his previous reports on the topic and, furthermore, had also been reflected in the note of the President of the Security Council of 29 January 1999 (S/1999/92). In that regard, particular reference was made to the following recommendations: drawing up a tentative list of potential effects of sanctions on third States; preparation by the Security Council of an advanced assessment of the potential impact of sanctions on the target country and third States; entrusting the Secretariat with the task of monitoring the effects of sanctions and with providing technical assistance to third States in preparing the explanatory materials to be attached to their requests for consultations with the Security Council; and the appointment of a Special Representative of the Secretary-General to undertake a full assessment of the consequences actually incurred by affected countries.

46. According to another view, not all the recommendations of the ad hoc expert group had attained the necessary consensus in order for the Special Committee to initiate their exhaustive consideration. In that connection, it was noted that not many States had submitted their views on the recommendations, that a working group of the Security Council was still dealing with the general issue of sanctions and that the views of the Secretary-General on the recommendations were still pending.

47. As regards measures which could alleviate the detrimental effect of sanctions upon third States, reference was made to the following suggestions: commercial exemptions or concessions granted to neighbouring countries; directly requesting the views of third States; taking into account special circumstances, such as natural disasters, when a third State might have an urgent need for some items; and assigning priority to contractors from third States in the implementation of humanitarian assistance projects in the target State.

48. The view was expressed that the report of the expert group meeting, together with the views submitted by States, the organizations of the United Nations system, international financial institutions and other relevant international organizations constituted a sufficient basis for reaching an agreement on the practical implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions.

49. Delegations commended the Security Council for its work on addressing the issue of sanctions. Particular mention was made in that regard of its efforts to improve the functioning of the sanctions committees, to streamline their working procedures and to facilitate access to them by third States affected by sanctions. In that connection, some delegations expressed the hope that the Security Council would continue those efforts, as well as those concerning the further enhancement of the effectiveness and transparency of the sanctions committees.

50. The point was made that Security Council resolution 1343 (2001) of 7 March 2001, by which the Council had established a two-month period prior to the entry into force of sanctions, was both interesting and useful since it gave time to the target State to modify its behaviour and to third States to prepare themselves for the mitigation of the possible adverse impact of the sanctions.

51. Appreciation was also expressed for the work undertaken by the working group of the Security Council on the general issue of sanctions. It was stated that the draft report of the working group positively reflected many of the ideas and practical approaches contained in the recommendations of the ad hoc expert group, in particular those found in paragraphs 51 to 54, 56 and 57 of the document (A/53/312). The hope was expressed that the Security Council would adopt the draft report, which would thus constitute an important source of reference for finalizing deliberations on the issue of Article 50. It was also noted that the findings of the working group could avoid unnecessary duplication of work on the topic.

52. However, the point was also made that nothing prevented the General Assembly and its subsidiary bodies, such as the Special Committee on the Charter, from studying and making recommendations on the issue of sanctions, irrespective of the endeavour entrusted to the working group of the Security Council.

53. Appreciation was expressed for the reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions. Some delegations reiterated that they looked forward to the views of the Secretary-General on the recommendations of the ad hoc expert group meeting in his next report on the topic, in particular as regards their political, financial and administrative feasibility. For some delegations, the last point was of particular importance since many of the recommendations concerned the Secretariat. It was also stated that the upcoming report of the Secretary-General should take into account the report of the working group of the Security Council on the topic.

54. In the opinion of some delegations, the Special Committee would face difficulties in having a substantial discussion on the recommendations of the ad hoc expert group in the absence of the views of the Secretary-General.

55. Some delegations voiced their support for the establishment of a working group within the Sixth Committee in order to focus on the topic of assistance to third States and felt that the Special Committee could make a recommendation in that regard to the General Assembly.

56. In the light of the fact that the Special Committee did not have enough time to begin a paragraph-by-paragraph consideration of the recommendations of the ad hoc expert group meeting, it was suggested that, at its session in 2002, the Special Committee should attempt to establish which of the recommendations had the overall support of States, which ones required additional clarification and which ones elicited a divergence of views regarding their endorsement. Such an approach, it was stated, would allow the Special Committee to endorse some of the recommendations and submit them for consideration by the General Assembly, thus producing some concrete results on the matter.

57. The Special Committee welcomed once again the report of the Secretary-General summarizing the deliberations and main findings of the ad hoc expert group convened pursuant to General Assembly resolution 52/162 of 15 December 1997 (A/53/312) and recommended that at its fifty-sixth session the General Assembly should continue to consider, in an appropriate substantive manner and framework, the results of the ad hoc expert group meeting, taking into account the relevant debate in the Special Committee at its 2001 session, the views of States, the organizations of the United Nations system, the international financial institutions and other relevant international organizations, as contained in the reports of the Secretary-General (A/54/383 and Add.1 and A/55/295 and Add.1), as well as the views of the Secretary-General regarding the deliberations and main findings of the ad hoc expert group to be submitted pursuant to Assembly resolutions 54/107 and 55/157, and the relevant information to be submitted by the Secretary-General on the follow-up to the note of the President of the Security Council (S/1999/92), and to address further the question of the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions under Chapter VII and the implementation of General Assembly resolutions 50/51, 51/208, 52/162, 53/107, 54/107 and 55/157, taking into account all reports of the Secretary-General on the subject and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, as well as the proposals presented and views expressed in the Special Committee.

58. The Special Committee strongly encouraged the Secretary-General to expedite the preparation, before the fifty-sixth session of the General Assembly, for consideration by the Sixth Committee, of his report, as requested by the Assembly in paragraph 5 of its resolutions 54/107 and 55/157, which would take into account, inter alia, the further work undertaken recently on the issue by the Security Council, the General Assembly and its relevant subsidiary organs, and the Economic and Social Council.

B. Consideration of the revised working paper submitted by the Russian Federation entitled "Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation"[13]

59. During the general exchange of views held at the 236th meeting of the Special Committee, some delegations stressed that establishing standard conditions and criteria for the imposition of sanctions

should be considered as a part of strengthening the role of the United Nations. They noted that the Special Committee had the mandate to discuss this issue and stressed the important role of the Special Committee in that regard, in particular in readjusting the imbalance of power between the Security Council and the General Assembly in questions of imposition and lifting of sanctions.

60. The importance of discussing the credibility of the sanctions regimes established by the Organization was stressed. In that connection, some delegations noted the need to avoid double standards as well as the perception that a State or a group of States might use sanctions as a political tool.

61. While noting the practical difficulties in imposing simultaneously effective and humane sanctions, some delegations noted with satisfaction the emerging tendency in the work of the Security Council to take into account humanitarian and other aspects of sanctions regimes. Delegations stressed that the sanctions should be "smart" by making them effective and flexible with respect to exemptions and limiting them in scope and time. It was also stated that before imposing sanctions, clear objectives of their imposition and precise criteria for lifting them should be defined.

62. Several delegations underscored the exceptional and last-resort character of sanctions, which should be imposed after all other peaceful means of settlement of disputes had been exhausted and only after an appropriate resolution by the Security Council. Emphasis was placed on the need to assess the effects of sanctions before and during their imposition, with the aim of adjusting the sanctions regime.

63. Some delegations reiterated their support for some of the ideas contained in the working paper. The sponsor delegation expressed its satisfaction at the progress achieved at the previous session in connection with the consideration of the working paper and expressed the hope that the discussion at the current session would be carried out in a constructive and efficient way.

64. Section II of the revised working paper was considered, on a paragraph-by-paragraph basis, at the 1st, 2nd and 3rd meetings of the Working Group, held on 2 and 3 April 2001. The view was expressed that the discussion should be considered as being preliminary in nature and that, as had been the case the previous year, silence should not be construed as agreement.

65. In introducing section II of the revised working paper, the sponsor delegation observed that the "humanitarian limits" of sanctions deserved the particular attention of the Special Committee. The delegation recalled that more than 10 sanctions regimes were in existence at the moment and expressed the view that certain of them imposed in the 1990s had caused, in some instances, serious hardship to and had had a catastrophic impact on the most vulnerable groups of the civilian populations, namely children, women and the elderly. Sanctions should be imposed only as an exceptional measure once all the other peaceful methods of settlement of disputes had been exhausted. An assessment of the potential impact of sanctions prior to their imposition as well as an assessment of actually incurred consequences was of paramount importance to all concerned. The destructive effects of sanctions on both target and third States should not be overlooked. The humanitarian aspects of sanctions had been addressed by the General Assembly, the Security Council and the Economic and Social Council, as well as by other bodies of the Organization. In that connection, attention was drawn to the note by the President of the Security Council dated 29 January 1999 which, inter alia, suggested that the sanctions committees should establish appropriate arrangements and channels of communication with organs, organizations and bodies of the United Nations system in order to improve the assessment of the humanitarian consequences of sanctions regimes on the population of the target State.[14] The sponsor also referred to the note of the President of the Security Council dated 17 April 2000 concerning the Council's decision to establish on a temporary basis an informal working group to develop general recommendations on ways to improve the effectiveness of United Nations sanctions.[15] In the view of the sponsor delegation, the eventual recommendations by the Special Committee on those issues could be of substantial assistance to the Security Council in its consideration of sanctions regimes. Section II of the working paper was subsequently discussed paragraph by paragraph.

Paragraph 1

66. In introducing the paragraph, the sponsor delegation observed that its purpose was to stress the importance of taking into account humanitarian considerations when the Security Council considered sanctions. It did not intend to diminish the role of the Security Council. The sponsor delegation noted that the

purpose of sanctions should be to modify the behaviour of a party that was threatening international peace and security and not to punish the civilian population, destroy the infrastructure in the target State or otherwise exact retribution.

67. A number of delegations expressed support for the paragraph. The view was expressed that the Security Council, in considering the imposition of sanctions, should take fully into account the possible adverse humanitarian effects thereof on the general population of a target State and take into consideration the humanitarian situation which prevailed in that State prior to the imposition of sanctions. In certain instances, such humanitarian situations were so poor that the imposed sanctions only contributed to even further deterioration of the already severe conditions on the ground.

68. In terms of a drafting modification, it was suggested that the expression "humanitarian limits", in the chapeau, should be replaced by the expression "humanitarian aspects". Furthermore, the suggestion was made that paragraph 1 could include elements contained in paragraph 2 and, in particular, draw on the formulations contained in General Comment No. 8 (1997) of the Committee on Economic, Social and Cultural Rights.[16] That Committee, among other measures, had identified two sets of obligations under the existing international human rights instruments. The first set related to the target State and included an obligation to ensure the absence of discrimination in relation to the enjoyment of economic, social and cultural rights as well as to take all possible measures, including negotiations with other States and the international community, to reduce to a minimum the negative impact upon the enjoyment of such rights by vulnerable groups within society. The second set of obligations related to the party or parties responsible for the imposition, maintenance or implementation of sanctions and included an obligation to take the appropriate steps in order to respond to any disproportionate suffering experienced by vulnerable groups within the targeted country which might affect their enjoyment of economic, social and cultural rights. It was suggested that the wording of the chapeau of section II should reflect the concept of economic, social and cultural rights.

69. Responding to the above comments, the sponsor delegation indicated its receptiveness to the drafting suggestions put forward by delegations. In relation to the observations that the Security Council should take into consideration the humanitarian situation in the target State prior to the imposition of sanctions, it recalled that the Security Council had at its disposal under the Charter a large spectrum of measures of a temporary or interim character to which it had resorted quite often in the late 1940s and 1950s. Should the Council decide to utilize those provisional measures, the resort to sanctions might not always be necessary. In the view of the sponsor delegation, the Council should undertake a prior study of the potential side effects of intended enforcement or preventive measures. Sanctions should be resorted to with the utmost caution, when other peaceful measures provided by the Charter were inadequate. The sponsor delegation stressed that efforts should be made to minimize unintended side effects, especially with regard to the humanitarian situation in the target State.

Paragraph 2

70. In introducing the paragraph, the sponsor delegation indicated that there should be an appropriate interaction between the Security Council and the State which was the object of sanctions in order to ensure that fundamental human rights were not violated even in an emergency situation. In the light of the comments made by delegations with respect to paragraph 1, the sponsor delegation observed that the proposed list of rights could be expanded to include the reference to economic, social and cultural rights. It also noted that sanctions regimes adopted in the course of the previous decade, characterized by some scholars as "the sanctions decade", had at times created situations where target States were not able to ensure the enjoyment of those fundamental human rights by their populations.

71. Commenting on paragraph 2, the view was expressed that fundamental human and humanitarian rights should be fully respected by all concerned in time of peace as well as in time of armed conflict. The Security Council must take into consideration the humanitarian situation in the target State in accordance with the principles and purposes set out in the Charter of the United Nations and norms of international law. According to that view, general economic sanctions imposed against certain States in the past had constituted in practice economic embargoes and blockades against diverse sectors of society and

contributed to the worsening of the deplorable humanitarian situation.

Paragraph 3

72. In introducing the paragraph, the sponsor delegation remarked that it would be inadmissible for sanctions regimes to cause unnecessary suffering to the most vulnerable sectors of the civilian population of the target State. It also informed the Working Group that it was open to any suggestions that could improve the proposed provision.

73. Delegations expressed support for the thrust of the paragraph. It was observed, in particular, that all sanctions regimes should be in conformity with the international human rights instruments and that that concept could be reflected in paragraphs 1, 2 and 3. Mention was also made of the emerging concept of "smart" or "targeted" sanctions that were not aimed at the population at large. It was suggested that the concept of "unnecessary suffering" should be duly reflected in paragraph 1 as well.

74. The attention of the Working Group was drawn to instances in which imposed measures had resulted in a severe hardship for the civilian population of the affected States. Such measures had occasionally even been adopted by a group of States without the authorization of the Security Council. It was also pointed out that, in some instances, the regime of the target State exacerbated civilian suffering by diverting goods from civilian to military use, therefore creating a situation of civilian suffering which was not necessarily a consequence of the imposed sanctions. The need was stressed, when imposing sanctions, to avoid or keep to a minimum suffering by the most vulnerable groups of the population.

75. In response, the sponsor delegation recalled the recent practice of "smart" sanctions, which had targeted, for example, bank accounts of certain individuals while not imposing similar restrictions on the population of the affected State at large. The delegation stressed that sanctions could be imposed only by the Security Council when the latter determined the existence of any threat to the peace, breach of the peace or act of aggression under Chapter VII of the Charter. Accordingly, sanctions not approved by the Security Council were illegitimate and should not apply in practice. One delegation observed that unilateral sanctions decided upon by a State or group of States in the absence of a Security Council resolution could not be regarded as illegitimate if they were consistent with applicable international law. The sponsor delegation shared the view that sanctions should be devised in such a manner as to minimize the suffering among the population of the target State.

Paragraph 4

76. In introducing the paragraph, the sponsor delegation stressed that sanctions should not be of unlimited duration and that they should be subject to periodic adjustment in order to take into account the evolving humanitarian situation in the target State.

77. In the ensuing debate, it was stressed that the proposed provision was in line with the most recent practice of the Security Council. The view was expressed that sanctions should not be imposed forever since open-ended, unlimited sanctions had the potential of losing their credibility and effectiveness. It was noted that the objectives of sanctions and the precise conditions for lifting them should be clearly defined and stipulated in the decisions taken by the Security Council. The implementation of sanctions should be reviewed periodically and to that effect consultations should be held with the affected State. On the other hand, a view was also expressed that time limits for sanctions were not necessarily appropriate in all cases.

78. In support of the view that the proposed paragraph corresponded to the most recent practice of the Security Council, it was recalled that at least four of the most recent Security Council resolutions on sanctions regimes did contain provisions specifying the duration of their application. The view was expressed that it was likely that, in the future, decisions of the Security Council would on a regular basis specify the time-frame for sanctions regimes. However, it was also stressed that sanctions should not lapse automatically on a given date or be lifted irrespective of whether or not the target State had fulfilled all the requirements of the Security Council.

79. Concern was expressed that the wording of the paragraph did not suggest a possibility of periodic assessments of the short-term as well as long-term effects of sanctions. In that connection, a suggestion was made for the insertion of a separate paragraph to address the issue of the evaluation of sanctions on a periodic basis by the Security Council and its sanctions committees. Such evaluations should include expert

assessments of the financial, economic and humanitarian needs as well as other vulnerabilities of target countries at the time of the imposition of sanctions and regularly thereafter while they were being implemented. The view was also expressed that in the context of urgently needed sanctions, the requirement of prior assessment might not be relevant.

80. In response, the sponsor delegation stated that it shared many of the views expressed by delegations and the suggestion on the need for periodic assessments of sanctions. It also stressed that the extension of sanctions or the introduction of new sanctions could be carried out only with the approval of the Security Council and that the ultimate purpose of sanctions regimes should be the removal of a threat to international peace and security.

81. In that connection the view was also expressed that the ultimate purpose of sanctions should be to compel the target State to abide by the rules of international law by refraining from taking actions which constitute a threat to international peace and security.

Paragraph 5

82. In introducing the paragraph, the sponsor delegation indicated that in emergency situations and in cases of force majeure, sanctions regimes should be temporarily suspended in order to prevent a humanitarian disaster in the target State. The economic and humanitarian conditions of the civilian population in those situations should not be aggravated by sanctions. It also observed that a force majeure clause was not unusual and could be found in various international legal instruments.

83. In the ensuing debate, the observation was made that the underlining principle of the proposal was a commendable one. It was noted, however, that "smart" sanctions did not necessarily require suspension in all cases. Particular reference was made in that connection to certain smart sanctions such as personal assets freezes, visa-based travel restrictions on certain individuals and embargoes on arms trade which could remain in effect even in emergency situations. It was suggested that the wording of the paragraph should be adjusted accordingly.

84. In response, the sponsor delegation noted that the gist of the paragraph should be maintained while certain changes could be made to reflect the above observation. It encouraged interested delegations to formulate specific drafting proposals for insertion in the text. It also indicated that the list of force majeure events was not exhaustive and could be expanded to include, for example, explicit references to floods and earthquakes.

Paragraph 6

85. In introducing the paragraph, the sponsor delegation indicated that it was closely related to paragraph 5 and that its scope and purpose was self-evident, namely to prohibit measures likely to cause a serious deterioration in the humanitarian situation and a breakdown of the infrastructure of the target State.

86. While support was expressed for the goal of paragraph 6, it was observed that the language of the paragraph could be improved and that its form could benefit from bringing it into consistency with other paragraphs of section II. It was also suggested that the qualifying word "additional" should be inserted, so that the beginning of the paragraph would read: "Impermissibility of additional measures ..."

Paragraph 7

87. In introducing the paragraph, the sponsor delegation referred to regrettable instances in the past when humanitarian assistance had not reached certain sectors of the affected population and stressed the importance of the principles of impartiality and neutrality in the process of delivering such assistance.

88. A number of delegations agreed with the general thrust of the paragraph. The view was expressed that paragraphs 7, 9 and 10 were closely interrelated. In that connection, it was suggested that paragraphs 7 and 10, which set out the principles of the regime for the delivery of humanitarian supplies, should be merged and followed by paragraph 9, dealing with the implementation of those principles.

Paragraph 8

89. In introducing the paragraph, the sponsor delegation observed that its essence was closely related to the gist of paragraph 7. The delegation stressed the importance of taking into consideration, in devising and implementing sanctions regimes, the views of international humanitarian organizations that were universally recognized as credible and reliable. The delegation also noted that in a number of cases

mandates of certain United Nations agencies as well as humanitarian organizations and other relevant organizations which were involved in the provision of humanitarian assistance had not entirely corresponded with the actions taken by the Security Council. On the other hand, the Security Council had not always taken the views and opinions of such organizations into consideration at the time of the imposition of sanctions and thereafter, while they were being implemented. The sponsor delegation stressed that the humanitarian assistance provided by such international organizations should be unbiased, impartial and neutral; such assistance could not be used for political or any other purposes inconsistent with the respective mandates of those organizations. It also observed that the humanitarian and relief assistance provided by various international organizations should not be subjected to sanctions constraints.

90. A number of delegations expressed general agreement with the proposed provision. It was observed in particular that assistance provided by humanitarian organizations should not be used for political purposes. It was suggested that the expression "the views of international humanitarian organizations of generally recognized authority" should be replaced by the expression "the views of international humanitarian organizations whose mandates have universal recognition".

91. In response, the sponsor delegation agreed that the language of the paragraph could be improved and was receptive to suggestions made in the debate. Referring to the constituent instrument of the International Committee of the Red Cross, it also observed that the mandates of certain international humanitarian organizations deserved clarification with a view to specifying their functions in this area of activities.

Paragraph 9

92. In introducing the paragraph, the sponsor delegation observed that its main purpose was to ensure the utmost simplification of the delivery of humanitarian supplies to the affected civilian population as well as the exemption of standard medical and agricultural equipment and basic educational items from the scope of the sanctions regime. Certain sanctions regimes greatly inhibited the ability of a target State to provide the necessary protection for the economic, social and cultural rights of individuals living within its jurisdiction. Depriving the civilian population, especially the most vulnerable sectors thereof, of elementary medical supplies, staple food goods and educational items, as a result of sanctions, would contravene the Charter and the applicable international humanitarian and human rights norms.

93. Delegations expressed support for the thrust of the paragraph and stressed its importance. The attention of the Working Group was drawn to a number of specific instances in the practice of the sanctions committee established pursuant to Security Council resolution 661 (1990) which had led to unsubstantiated denials or unwarranted delays in the review of applications for goods and services destined for humanitarian purposes. It was suggested that the paragraph should be redrafted in order to guarantee its implementation in practical terms and prevent misinterpretation in its application. The view was expressed that sanctions should not hamper any form of the humanitarian assistance and that no distinction should be made between medical equipment and educational items, as they were both of equal importance for the affected population. Since humanitarian assistance was of vital importance to the affected civilian population, sanctions regimes should allow for a rapid delivery thereof without any hindrance. It was observed that the humanitarian assistance provided by various agencies and organizations should be closely coordinated on the ground. It was furthermore suggested that the references to goods, services and items in the first and second sentences of the paragraph should be harmonized. A further suggestion was made that the language of the paragraph could be strengthened by providing for a more detailed list of items that should be exempt from the sanctions regime. They could include, for example, basic personal hygiene items as well as the necessary sewage and sanitation equipment. It was also observed that in considering items that should be exempted, the experience of the use and operation of motor vehicles by the World Food Programme in affected States could be taken into account. It was suggested that the list of exempted items and services could be set out in a separate paragraph.

94. The sponsor delegation characterized the observations and suggestions made as constructive and deserving to be taken into account in the final version

of the document. It shared the view that the final document should not contain any loopholes or allow for an ambiguous interpretation of its provisions, which in practice could lead to extremely negative consequences. It pointed out that the list of the exempted items and services should not be deemed exhaustive and could be expanded to include other elements referred to by delegations, including emergency vehicles, other means of transport, together with gasoline and lubricants, as appropriate. The sponsor delegation was receptive to the suggestion that the list in question could be set out in a separate paragraph, which, in turn, could be placed between paragraphs 8 and 9.

Paragraph 10

95. The sponsor delegation stressed the importance of the paragraph, especially in the light of instances of violations in the delivery of humanitarian assistance. It was pointed out that the preferential treatment of one of the parties, the recipient of humanitarian assistance, was impermissible. The practice of providing preferential treatment contradicted moral and legal norms and violated the mandates of those humanitarian organizations and agencies that allowed such instances.

96. A number of delegations expressed their support for the principle outlined in the paragraph. Some delegations indicated that, while the paragraph provided for impartiality and the impermissibility of any form of discrimination, some "positive" discrimination with respect to vulnerable sectors of the population would be permissible and even desirable. It was suggested that that concept should be reflected in the revised text. In that context, the suggestion was also made to specify what sectors of the population should be considered "vulnerable", as there were cases where that term was interpreted differently.

97. Some delegations proposed that the list of principles governing the provision of humanitarian assistance should be expanded to include the principles of neutrality, independence and transparency. The view was expressed that the impermissibility of discrimination among suppliers of humanitarian assistance should also be reflected in the paragraph. In that regard, reference was made to the procurement method utilized by the United Nations to ensure that the best suppliers were attracted. It was proposed that the text should specify the principle of the best possible assistance to be provided by the suppliers together with the principle of non-discrimination among the suppliers. It was also pointed out that the sovereignty of States should be respected in the provision of humanitarian assistance. Such assistance should be subject to a prior explicit consent of or request from the recipient State.

98. The sponsor delegation found the proposals and comments interesting and constructive. It suggested that the list of principles could include all seven principles recently adopted by the International Committee of the Red Cross on the matter. With regard to the proposal to specify in the text vulnerable sectors of the population, the sponsor stated that the notion should, among other sectors, include children and women. However, in the view of the sponsor delegation, it was up to the Working Group to decide whether such a list should be included in the text. Addressing the issue of non-discrimination among suppliers of humanitarian assistance, the sponsor suggested a cautious approach as the choice of the suppliers involved many legal and political considerations.

Paragraph 11

99. In introducing the paragraph, the sponsor delegation stressed that the Security Council and its sanctions committees should receive complete, objective and transparent information on the situation in the target State to ensure the effectiveness of the sanctions regimes. The partial or full lifting of sanctions or their softening would depend on such information, and that made it especially important. The information should derive primarily from the target State as well as from intergovernmental and regional organizations with specific mandates, to avoid the risk of disinformation. In that regard, the sponsor also pointed to the role of the United Nations Secretariat as discussed in the Brahimi report, which, among other observations, contained the recommendation that "the Secretariat must tell the Security Council what it needs to know, not what it wants to hear".[17]

100. In the debate, it was generally felt that the paragraph would benefit from redrafting, both in form and substance. Some delegations expressed the preference that it should be considerably shortened and streamlined.

101. The view of the sponsor delegation on the primary sources of the information was shared by some

delegations. They proposed to specify in the text those international organizations that would provide the information. Conversely, some other delegations were of the view that limiting sources of information might be counterproductive since there would be a higher risk of receiving one-sided, biased or subjective information, as a result of which the situation in the target State could be evaluated incorrectly. Furthermore, a view was expressed that the paragraph ought to make it clear when the information should be made available to the Security Council and its sanctions committees. In that regard, the importance of receiving the information before the introduction of a sanctions regime and during its implementation was underscored. The view was expressed that the Security Council and its sanctions committees should continue the practice of hearing technical presentations of information by organizations involved in the enforcement of sanctions.

102. As to the scope of information, a number of delegations felt that in evaluating the effects of sanctions, information on all aspects must be considered, not only those dealing with humanitarian matters. It was stressed that the information must be absolutely objective and transparent. In that regard, the suggestion was made to delete the qualifying words "as possible". Some delegations were of the view, however, that it would be unrealistic to attempt to ensure the absolute transparency and objectivity of the information. Others felt that the terms "objective" and "transparent" were too broad. In that connection, a proposal was put forward that the wording should be adjusted, in the relevant part, to reflect the idea that the information "must be of the greatest possible transparency". It was also noted that, in addition to ensuring the transparency of information supplied to the Security Council and sanctions committees, the latter must also be transparent in evaluating and applying the information. It was also stressed that the information should be well documented to guarantee its objectivity.

103. Concern was expressed that the last part of the paragraph, as drafted, could be understood to imply that the full or partial lifting of sanctions would ultimately depend on the humanitarian situation in the target State. In that connection, it was observed that while the humanitarian situation should affect the parameters of the sanctions regime and the scope of the humanitarian assistance, the decision on lifting sanctions would depend primarily on the compliance by the target State with the requirements of the Security Council. It was therefore suggested that the second part of the paragraph should be redrafted to avoid such an interpretation. Conversely, a strong view was expressed that upon considering the information, the Security Council must modify the sanctions regime accordingly and undertake to lift sanctions, fully or partially, at a later stage.

104. The following additional suggestions were made: to amend the beginning of the paragraph to read "[a]ll information on humanitarian consequences of sanctions must be objective"; and to add the qualifying words "when necessary" after the words "taken into account". It was also proposed that the paragraph should address the need to evaluate, in addition to direct and material consequences, indirect and immaterial consequences of the imposition of sanctions. Furthermore, it was suggested that a possibility of the temporary suspension of the sanctions regime should be reflected in the paragraph.

105. The sponsor delegation found the suggestions and comments useful and agreed to take them into account in preparing the revised text. It also reiterated its observations with respect to the sources and nature of information.

Paragraph 12

106. In introducing the paragraph, the sponsor delegation, while underscoring the importance of the equitable and unimpeded distribution of humanitarian assistance by the target State, reiterated that no such assistance might be provided, in view of the sovereignty of States, without the express consent or request of the target State. It further stressed that neither "humanitarian intervention" nor the use of force or a threat to use force must take place under the pretext of providing humanitarian assistance, as those actions could only be carried out with the approval of the Security Council.

107. In the debate, it was observed that the paragraph should be redrafted in order to better convey the points referred to in the preceding paragraph. In particular, the suggestion was made to specify that the use of force or a threat to use force for the purpose of distributing the humanitarian assistance must not take place in the absence of the relevant decision by the Security Council. On the other hand, a view was also expressed

that the working paper was not intended to deal with matters related to the use of force and that the proposed changes were therefore unnecessary.

108. The sponsor delegation shared the view that the points referred to in its introductory remarks could be reflected more clearly in the paragraph.

Paragraph 13

109. In introducing the paragraph, the sponsor delegation noted that in essence it summarized the necessary criteria and conditions for imposing and implementing sanctions. According to the sponsor delegation, those criteria and conditions were becoming standard requirements in the activities of concerned international and regional organizations. It also indicated that the list of the requirements contained in the paragraph might be expanded.

110. The suggestion was reiterated that, as in the chapeau, the reference to "humanitarian limits" in the present paragraph should be replaced by "humanitarian aspects".

Other comments

111. As regards formal aspects of the working paper, the remark was made that, unlike the rest of the paper, paragraphs 6 to 10 did not appear to be complete sentences. The sponsor delegation agreed to recast those paragraphs so as to ensure a unified approach in the working paper.

112. Responding to the inquiry regarding the form which could be given to the paper, the sponsor delegation, while referring to its flexibility, expressed a preference for a declaration annexed to a short General Assembly resolution and cited examples of various documents prepared in such a manner by the Special Committee in the past. Flexible support was expressed for that idea. It was further observed that the text might require a second reading and, perhaps, a third one before consensus on its substance might be reached. The sponsor delegation expressed the hope that the revised text would be adopted in the near future.

113. In its concluding remarks, the sponsor delegation expressed its gratitude for the friendly and constructive environment that had prevailed during the discussion on the working paper at the current session. It also welcomed any proposals from delegations aimed at improving the text. The Working Group thus concluded the first reading of the entire working paper.

C. Consideration of the working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions

114. During the general exchange of views held at the 236th meeting of the Committee, the delegation of the Libyan Arab Jamahiriya remarked that it would submit a proposal on the question of sanctions for the consideration of the Committee. The proposal contained three elements, reflecting the proposition that sanctions should be imposed only as a last resort after all peaceful means of settlement of disputes envisaged under Chapter VI of the Charter of the United Nations had been exhausted; that the imposition of sanctions should not lead to excessive financial and economic hardship on the targeted State; and that such a State had a right to claim fair compensation in the event that the sanctions were imposed or applied contrary to the rules and principles of international law. The Libyan delegation recalled that it had submitted similar proposals, in the form of amendments to the draft resolution related to assistance to third States affected by the application of sanctions, in the context of the consultations of the Sixth Committee of the General Assembly at its fifty-fifth session. General Assembly resolution 55/157 of 12 December 2000, which had been adopted without a vote, accompanied by a statement of the Chairman of the Sixth Committee requesting the Special Committee to consider the question of assistance to third States, taking into account various proposals made, including those presented by the Libyan Arab Jamahiriya.

115. The delegation of the Libyan Arab Jamahiriya stressed that the question of sanctions was of particular interest to its country, which was the subject of sanctions imposed by the Security Council. Such sanctions had had a catastrophic effect, particularly on the civilian population. Although the sanctions were currently suspended, in the view of the delegation there was no justifiable reason or basis for their retention. It was compelled to submit the proposal because there were legal questions which needed to be addressed, and in its view the matter was within the purview of the Committee, as a subsidiary body of the General

Assembly, to consider. It expressed the hope that tangible results on the proposal would be achieved at the current session of the Committee.

116. At the 5th meeting of the Working Group, on 4 April 2001, the delegation of the Libyan Arab Jamahiriya submitted and orally amended a working paper entitled "Strengthening of certain principles concerning the impact and application of sanctions" (A/AC.182/L.110 and Corr.1), which contained the proposal and explanatory notes. The working paper read as follows:

"During the discussions on agenda item 163 in the Sixth Committee at the fifty-fifth session of the General Assembly, the Libyan Arab Jamahiriya submitted an amendment to draft resolution A/C.6/55/L.3 on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions.

"I

"1. It is appropriate to state that the session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization is an appropriate forum in which to raise the topic of sanctions given that the Committee is one of the instruments of the work of the General Assembly. In accordance with Article 10, Article 11, paragraph 1, and Article 13 of the Charter, the General Assembly may consider and make recommendations on any questions 'within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter' (Article 10), may 'consider the general principles of cooperation in the maintenance of international peace and security' (Article 11, paragraph 1), and shall 'initiate studies and make recommendations for the purpose of: a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification; ...' (Article 13, paragraph 1).

"On that basis, it is clear that the Special Committee has a mandate to consider this question, whether it is a matter of sanctions regimes as a whole, the impact of sanctions on third States or the impact of sanctions on the targeted State.

"2. The amendment submitted by the Jamahiriya accords with the general spirit of the discussions that took place during the previous session of the Special Committee, especially those held during the consideration of the revised working paper submitted by the Russian Federation entitled 'Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation' (A/55/33, paragraph 50). The amendment is also generally in keeping with the views expressed in the discussion of the items relating to the maintenance of international peace and security and assistance to third States affected by the application of sanctions (A/55/33, paragraphs 37 and 38).

"II

"3. The Libyan proposal relates to three issues:

That the imposition of sanctions and coercive measures should be regarded as an extraordinary action, in the sense that it is a last resort when peaceful methods have been exhausted;

That the application of sanctions should not cause the target State financial or economic burdens over and above those resulting from the direct application of the sanctions;

That the target State has the right to claim and obtain just compensation for unlawful damage sustained by it owing to sanctions that have been imposed or applied without foundation and in an illegal manner.

"III

"4. The foundation on which the elements of this amendment are based is the assertion that the power to employ sanctions is derived from the Charter and must thus be exercised in a framework of respect for the Charter and for general international public law.

"This means that there must be compliance with the Charter and international public law:

When it is decided to impose sanctions;

And when practical measures are being taken to implement the sanctions.

"5. The Security Council has the power to impose sanctions under the Charter. (The current provisions of the Charter relating to the powers of the Security Council, its composition and voting in the Council are, however, no longer appropriate to the present situation of the international community, and the Libyan Arab Jamahiriya has now been advocating their revision for a quarter of a century.)

"The power of the Security Council to determine the suitability of imposing sanctions and to choose the type of sanctions to be imposed is stipulated in the Charter, and the Council is not exempt from respect for the Charter and for law when it imposes sanctions. The legality of the Security Council's actions derives from the 'empowerment' granted to the Council by Member States and from its authorization to act on their behalf in the matter of international peace and security (see Article 24, paragraph 1). This is not a blank cheque or an unrestricted authorization, and paragraph 2 of the same Article qualifies it by stating that 'In discharging these duties the Security Council shall act in accordance with the purposes and principles of the United Nations. ...'.

"Even if we were to adopt a narrow interpretation that confined this qualification to the literal text of Article 1 of the Charter, this would still mean that the Council exercises its powers 'in conformity with the principles of justice and international law' (Article 1, paragraph 1).

"The Council and the Organization as a whole are not, moreover, above that international law of which the Charter is to be regarded as a part. Although this is a conceded fact and does not need to be stated, we invite the Special Committee to affirm it, in order to eliminate the uncertainties that arise in its regard, by making explicit reference to the fact that the Council is not exempt from respect for the principles of international law when it exercises its powers.

"6. The privileges that the Charter grants to the Security Council and the wide powers it accords it, despite the arbitrariness that has been apparent in their use in many cases, all stem from the absolute priority of the maintenance of international peace and security (Article 1, paragraph 1). The Council thus possesses under the Charter an inherent power to regulate situations that represent a threat to or breach of the peace or cases of aggression. This is a power that the Council must use in a manner that is non-discriminatory and accords with reality if it is to be within the framework of the authorization for which provision is made in Article 24, paragraph 1. This raises questions as to the legitimacy of many of the positions adopted by the Council to justify its characterization as a threat to international peace and security of international disputes or regional situations that could be resolved by peaceful means and do not pose a threat to international security, while it has adopted many other positions where it has refrained from giving this characterization to cases of blatant armed aggression or to situations that do pose an immediate threat to international peace and security.

"7. It is true that the Charter does not explicitly require the Council to exhaust all peaceful means before resorting to the measures stipulated in Article 41, but this is to be inferred implicitly from the provisions of the Charter and from the nature of sanctions themselves.

(a) Article 24, paragraph 2, provides that 'In discharging these duties the Security Council shall act in accordance with the purposes and principles of the United Nations'. According to Article 1, these purposes include '... to bring about ... by peaceful means, and in conformity with the principles of justice and international law[, adjustment or settlement ... of disputes] ...'.

(b) The adoption of coercive measures is by its nature an exceptional action, representing as it does interference in the affairs of the State targeted by sanctions and being detrimental to the interests of that State. It must therefore be based on necessity, inasmuch as the Council finds itself in a situation in which it can meet the case before it only by deciding to impose sanctions as a last resort and having exhausted non-coercive means.

(c) The Council was given determinative powers to assess the appropriateness of imposing sanctions and to select the type of sanctions to be imposed in order to enable it to confront

emergency or urgent situations where it might not be appropriate to employ non-coercive means, and the Council is required not to be arbitrary in using these powers. Accordingly, when it resorts to the imposition of sanctions before exhausting all possible peaceful means of addressing a situation before it, in cases other than emergency or urgent cases, it is being arbitrary in the use of its powers.

"8. The second paragraph of the proposed amendment relates to ways of addressing the economic and financial problems encountered by the State targeted by sanctions so that they do not impose on it burdens in addition to those it bears as a result of the direct application of the sanctions.

(a) This amendment affirms the provisions of Article 50 of the Charter and is fully in accord with the *travaux préparatoires* for the Charter, as endorsed by the States participating in the San Francisco Conference (see *United Nations Conference on International Organization*, vol. XII, p. 397).

(b) The amendment, as well as being in accord with the provisions of the Charter and its *travaux préparatoires*, is also based on a general principle of international public law, namely the principle of the avoidance of excess and proportionality. What is meant by the avoidance of excess is that the application of sanctions should not have an impact that goes beyond its direct impact and thus exceeds the bounds within which they have been set, that is to say their very foundation. The principle of proportionality is one to which, according to international law, all kinds of countermeasures are subject. The comments of States on the draft articles on State responsibility, as adopted in first reading by the International Law Commission, indicate general international endorsement of this rule. In the case of sanctions, the proportionality rule requires that there should be proportionality between the substance of the sanctions imposed and their impact on the one hand and their legitimate objective on the other, so that they do not inflict extreme or excessive damage on the target State.

"9. The third paragraph of the proposed amendment is no more than a necessary consequence of subjecting the power to impose sanctions to the Charter and international law, it being conceivable in such a case that sanctions that violate the Charter could be imposed or that powers could be exceeded.

"It is true that giving effect to this principle could encounter practical difficulties relating to the parties competent to determine excess and the designation of the international person or persons responsible. It nevertheless remains an application of the general principles of law, just as international organizations are international legal persons subject, like States, to be held accountable for their unlawful acts and thence for the discharge of the obligations imposed on them by the law of liability. Otherwise there would be no sense in subjecting them to the principle of legality and regarding them as obliged to respect their charters and international law."

117. In its introduction, the sponsor delegation reiterated the comments that it had made during the general exchange of views, reading out portions of the working paper.

118. In the Working Group, some delegations expressed support for the proposal and stressed the importance of its consideration. The view was also expressed that it raised legal questions to real and practical problems. Some doubt, however, was expressed as to whether the proposal, which seemed to focus on the impact of sanctions on the targeted State, raised issues concerning assistance to third States under Article 50 of the Charter. Other delegations remarked that the issues were similar to those raised in the revised working paper submitted by the Russian Federation, entitled "Basic conditions and criteria for the introduction of sanctions and other coercive measures and their implementation" (see sect. B above). Consequently and taking into account that there was no objection to its consideration, the Committee decided to proceed with a discussion of the proposal on the understanding that the relevant discussion would be reflected separately in the part of its report immediately following the proposal by the Russian Federation on basic conditions and criteria.

119. In order to allow for a focused discussion, consideration of the proposal centred on its section II, paragraph 3, it being understood that paragraphs 4 to 7 of section III were explanatory paragraphs relating to

the first tier, paragraph 8 of section III, to the second tier and paragraph 9 of section III to the third tier of the said section II, paragraph 3. In a preliminary and general consideration of the proposal, delegations made general and specific comments regarding section II, paragraph 3, of the proposal and, where necessary, to the corresponding explanatory paragraphs.

Section II, paragraph 3, first tier

120. In expressing their support to the principle contained in the first tier, several delegations confirmed their understanding that sanctions were an extreme and extraordinary measure which could only be applied in exceptional circumstances. It was maintained that such an interpretation was consistent with the Charter of the United Nations, particularly Chapter VI thereof. Moreover, it was also observed that, as a matter of practice, especially in the 1970s and in the 1980s, recourse to sanctions had been exceptional. It was furthermore asserted that sanctions should be imposed and implemented in accordance with the provisions of the Charter of the United Nations.

121. Several delegations noted that the principle contained in the first tier had been the subject of a previous comprehensive discussion, especially within the context of An Agenda for Peace (see A/47/277-S/24111 and A/50/60-S/1995/1). In that connection, references were made to the relevant parts of annex II to General Assembly resolution 51/242 of 15 September 1997, with some delegations suggesting that the already agreed consensus language of that resolution could be employed and the balance reflected in it maintained. Considering that the tier was linked to the proposal submitted by the Russian Federation on basic conditions and criteria for the introduction of sanctions (see para. 118 above), it was also suggested that it could be included in or considered in the light of any future formulations of principle I, paragraph 1, of that proposal.

Section II, paragraph 3, second tier

122. Concerning the second tier, delegations affirmed the power of the Security Council to impose the coercive measures contemplated in Chapter VII of the Charter in the exercise of its functions under the Charter. However, in the view of several delegations such power was not unfettered. The Security Council was supposed to exercise its authority in accordance with the purposes and principles of the Charter.

123. The point was made that the future of the sanctions regimes lay in the imposition of targeted or "smart" sanctions. On that account, it was difficult to envisage the application of the principle contained in the second tier in the context of such sanctions. Several delegations also remarked that sanctions were a useful tool intended to change the behaviour of a recalcitrant State. The point was made that since sanctions, by their nature, were intended to exert pressure on the target State, incidental consequences were unavoidable. It was also stated that the notion of proportionality gave rise to other practical problems concerning what constituted sanctions, which "caused financial or economic burdens".

124. On the other hand, in support of the proposition, it was contended that the Security Council, in its past practice, had imposed "unsmart" sanctions, deviated from mandates contained in its own resolutions and adopted resolutions which imposed sanctions which were either contradictory or of unlimited duration. It was asserted that the second tier raised political and ethical questions. Sanctions were not intended to be punitive and thereby cause unnecessary hardship and other unintended consequences on the civilian population. The principle of proportionality was therefore relevant. Some delegations, expressing support for the proposition, contended that it was concerned with consequences "over and above" those that would ordinarily ensue as a direct consequence of the sanctions.

125. Several delegations noted that similar issues had been raised by the General Assembly in annex II of its resolution 51/242 and that the consensus language of that resolution should be applied. It was also noted that the proposition raised questions relating to humanitarian aspects of sanctions. It could therefore be considered in the context of the proposal by the Russian Federation on basic conditions and criteria for the introduction of sanctions.

126. The point was made that the justification contained in section III, paragraph 8, was untenable since Article 50 of the Charter applied only to assistance to third States affected by sanctions and not to the targeted State.

Section II, paragraph 3, third tier

127. With regard to the proposed right to compensation as contained in the third tier, the point was made that it raised an important question of the international responsibility of the United Nations when the Security Council acted ultra vires its functions or imposed and implemented a sanctions regime in a manner that was contrary to the Charter of the United Nations, and that, under the terms of Article 13 of the Charter, the General Assembly was competent to discuss the proposal.

128. A number of delegations observed that the third tier contained interesting and complex legal and conceptual questions. Considering that sanctions were per se a legal and useful tool, the proposition also raised some practical problems. In that connection, a number of questions were raised, such as who would decide that a determination by the Security Council regarding the imposition or application of sanctions was without foundation, and whether it would be the International Court of Justice; whether decisions of the Security Council would be subject to extraneous review; at which point would legal sanctions become illegal and who would make such a determination; what was "unlawful damage"; and what constituted "just compensation" and who would be responsible for the payment of such compensation.

129. It was also observed that it would be necessary to clarify certain ideas in the proposal in order to fully understand their ramifications, in particular what was "unlawful damage" and what was meant by "sanctions imposed or applied without foundation" and by "sanctions imposed or applied in an illegal manner". In that connection, a question was raised as to whether they were intended to apply to situations where sanctions were erroneously imposed, to situations where the reasons for the imposition of sanctions no longer existed or where the Security Council made a determination to impose sanctions on erroneous information, or to situations where collateral consequences arose from legally imposed sanctions.

130. The point was also made that the sponsor should provide data concerning instances in which Security Council resolutions could be considered illegal. From that perspective, since there was a presumption that such resolutions were legal, the burden was on the one alleging the illegality to prove otherwise and to provide information, for example, that the required procedure had not been complied with or, as a substantive matter, that the peaceful means for the settlement of disputes had not been exhausted.

131. The point was made that since the third tier applied to sanctions imposed by the United Nations it was impossible to envisage a situation where such sanctions could be imposed outside the framework of Chapter VII of the Charter, with the Security Council acting in the exercise of its responsibilities under the Charter and in accordance with its provisional rules of procedure. According to that view, it was inconceivable that such sanctions could be considered illegal. It was suggested that the only instance in which the question of illegality could conceivably arise was in respect of sanctions unilaterally applied by States.

132. It was also stressed that organs of the United Nations did not have a separate or distinct personality from that of the Organization and consequently could not incur an international responsibility of their own. In that connection, the view was expressed that the Organization would be responsible for the payment of compensation and its Member States assessed as they were with respect to peacekeeping operations. Reference was made in that respect to the advisory opinion of the International Court of Justice in the *Certain Expenses* case[18] and also to the view of the ad hoc expert group convened to develop a methodology for assessing the consequences incurred by third States as a result of preventive and enforcement measures, as contained in paragraph 37 of the report of the Secretary-General (A/53/312).

133. In response to some questions raised during the consideration of the proposal, the sponsor delegation asserted that its intention had been to make a contribution to the implementation of the Charter and to ensure that it was respected. The General Assembly could materialize such a contribution by means of the progressive development and codification of the relevant principles of international law.

134. The sponsor delegation suggested that the Committee should examine the proposal from a political perspective as well. In its view, the reality was that in recent years the Security Council had applied sanctions to several countries in a manner that went beyond the framework of the Charter. The sponsor's proposal raised specific issues. It captured the essence of the negative consequences of sanctions with a view to avoiding their negative and deleterious effects,

including on the civilian population. It was also intended to avoid the application of the type of sanctions that the Security Council had been applying in its recent practice. The sponsor claimed that its proposal was firmly based on Article 1 of the Charter of the United Nations.

135. Turning to the various aspects of section II, paragraph 3, the sponsor delegation observed, with respect to the first tier, that there was no contradiction between its proposal and the proposal of the Russian Federation on basic conditions and criteria for the introduction of sanctions, although there were some nuanced differences of emphasis. It did not foresee any major difficulty in considering the first tier in the context of that proposal. The fact that certain aspects were covered in the Agenda for Peace reinforced the credibility of its proposal.

136. With regard to the second tier, the sponsor acknowledged the current efforts to focus on "smart" sanctions. However, to describe future sanctions as "smart" only confirmed that there was a problem with the current sanctions regimes, which only discredited any future sanctions that the Security Council might impose. Even "smart" sanctions should be proportional and consistent with the spirit of Article 50 of the Charter. In that connection, the sponsor alluded to previous unsuccessful efforts to require the target State to bear the full responsibility of the effects of sanctions under Article 50.

137. Concerning the third tier, the sponsor observed that it was a special case falling within the area of progressive development of international law. However, it hastened to add that the idea of just compensation for unlawful damage was not new; what was new was its application to a particular set of circumstances. It reminded the Committee that the topic of "State responsibility" was on the current agenda of the International Law Commission, and that the question of the international responsibility of international organizations was likely to become a new topic on the Commission's agenda. The United Nations was an intergovernmental organization with an international legal personality under international law. As such, like a State, the international law of responsibility would hold it responsible for certain of its activities.

138. The sponsor delegation also observed that certain propositions were not as self-evident as some delegations believed. In some cases, sanctions were not imposed by the Security Council as a last resort. In other instances, they were imposed in circumstances which did not constitute a threat to international peace and security, on the basis of a mere suspicion or where there had been a change of a political regime. In the view of the sponsor delegation, resolutions of the Security Council were not immutable. In concluding, the sponsor delegation expressed its interest in having some answers to these problems.

D. Consideration of the working paper submitted by the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations"

139. During the general debate held at the 236th meeting of the Special Committee, the sponsor delegation, the Russian Federation, referred to the working paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations",[19] which it had submitted to the Special Committee at its 1998 session. The sponsor delegation reiterated that the goal of the working paper was the elaboration of legal parameters for peacekeeping operations in the context of Chapter VI of the Charter of the United Nations, taking into account the vast experience of the Organization in that field. The consideration of the proposal in the Special Committee could be proceeded with in close collaboration with other United Nations organs dealing with practical aspects of peacekeeping. Such an approach would avoid duplication of efforts and would help to establish which legal issues in the area of peacekeeping should be considered by the Special Committee on a priority basis. Some delegations expressed their support for the continued consideration of the proposal in the Committee, stressing that the establishment of a clear framework and legal criteria would improve the conduct of peacekeeping operations. The point was made that the adoption of a declaration on the issue would help to guide United Nations peacekeeping on the basis of relevant fundamental principles, within the established mandates. Other delegations expressed reservations with regard to the proposal on the ground that it was essential for the Special Committee to avoid

unnecessary duplication and repetition of work on similar subjects carried out by other United Nations bodies.

140. In its introductory statement in the Working Group, the sponsor delegation pointed out that the consideration of its proposal by such legal bodies as the Sixth Committee and the Special Committee on the Charter could contribute to the implementation of relevant provisions of the United Nations Millennium Declaration[20] and of the Security Council declaration on ensuring an effective role for the Security Council in the maintenance of international peace and security, particularly in Africa.[21] The sponsor noted that both declarations, inter alia, reaffirmed the need to strengthen respect for the rule of law and commitment to the purposes and principles of the Charter of the United Nations, to make the United Nations more effective in maintaining international peace and security by giving it the resources and tools it needed for conflict prevention, the peaceful resolution of disputes, peacekeeping, post-conflict peace-building and reconstruction. Both declarations requested the General Assembly and the Security Council to consider the recommendations of the report of the Panel on United Nations Peace Operations[22] expeditiously. Specific measures relevant to the proposal were outlined, in particular, those outlined in section III of the Security Council declaration,[21] in which the Council had affirmed its determination to strengthen United Nations peacekeeping operations by, inter alia: adopting clearly defined, credible, achievable and appropriate mandates; including in those mandates effective measures for the security and safety of United Nations personnel and, wherever feasible, for the protection of the civilian population; taking steps to assist the United Nations in obtaining trained and properly equipped personnel for peacekeeping operations; strengthening consultations with troop-contributing countries when deciding on such operations; supporting the upgrading of United Nations capacity for planning, establishing, deploying and conducting peacekeeping operations; and providing a more up-to-date and sounder foundation for financing peacekeeping operations.

141. The sponsor delegation also observed that issues relating to peacekeeping operations remained topical and were being addressed by various organs of the United Nations, including the Security Council, through its Working Group of the Whole on United Nations peacekeeping operations;[23] and the General Assembly, through its Special Committee on Peacekeeping Operations; as well as by regional and subregional organizations. In addition, the report of the Secretary-General on the work of the Organization[24] clearly attested to the fact that the activities pursued in a contemporary peacekeeping operation were far more extensive and complex than those of traditional peacekeeping, with peacekeepers undertaking an expanded range of tasks.

142. The sponsor delegation also recalled that it had in the past put forward certain proposals, some of which had only been taken up recently. In that connection, it alluded to the request by the Security Council that the Secretary-General, following consultations with the United Nations membership, including troop-contributing countries, should prepare a comprehensive operational doctrine for the military component of the United Nations peacekeeping operations.[25] With an increase in the number of peacekeeping operations and many more envisaged in future, it was imperative that States should know the principles that guided peacekeeping operations. Thus, there was a need for the elaboration of a doctrine or a declaration on basic principles of peacekeeping. Consequently, it was not acceptable for the Special Committee to remain uninvolved in a subject which raised numerous legal issues.

143. Turning to the content of the proposal, the sponsor delegation reiterated its essential elements, pointing out that it drew attention in a non-exhaustive manner to the relevant legal issues applicable to a peacekeeping operation, which required consideration. It stressed the need to address the legal aspects relating to: the purpose of a peacekeeping operation, highlighting the relevance of Chapter VI of the Charter of the United Nations, to the competence of the United Nations to establish such operations; the mandate of such an operation, its command structure and the various components of the operation; the basic principles applicable, such as consent of the parties, neutrality and impartiality, non-use of force, except in self-defence and cases established by the mandate of the operation; and the content of the right of self-defence, including the interpretation that it encompassed the right to defend the objectives of the mission. Consideration could also be given to legal elements relating to the machinery for the conduct of peacekeeping; the determination of and apportionment

of contributions to the budget; conditions for the contribution of national contingents; rights and obligations of transit and receiving States; the safety and welfare of the personnel of the operation; the responsibility of the United Nations and States participating in such operations, including questions of liability; and issues relating to the criminal jurisdiction of contributing States in respect of their personnel. The sponsor delegation concluded by noting that in considering those issues, the Special Committee could make a proper contribution to the realization of the goals contained in the Millennium Declaration.

144. During the ensuing discussion, the point was made that the consideration of the issues raised in the proposal, which had been on the agenda of the Committee for several years, could be usefully undertaken by other, more competent bodies, which had already covered thorough ground. Therefore, the Committee should not take up the consideration of the issue.

145. A request was also made to the Secretariat to advise on the procedure to be followed in the event that the Special Committee wished to remit a proposal to another body of the United Nations.

146. The Secretary of the Working Group noted that there were two possibilities as regards the procedure in question, depending upon the legal status of the relevant document: (a) if the proposal, although discussed in the Working Group, continued to be a document sponsored by a delegation, the delegation concerned was entitled to withdraw it from the Special Committee and submit it to another body for its consideration; (b) if the proposal, after a preliminary or final examination by the Special Committee, had acquired the status of a document of the Special Committee itself, the Committee, as a subsidiary body of the General Assembly mandated to report to the Assembly on the results of its work, could recommend to its parent body through its main legal committee, the Sixth Committee, that the proposal should be submitted to another body for its consideration. The General Assembly could then decide on the subsequent course of action, through a resolution, a decision or a letter from the Chairman of the Sixth Committee to the chairman of another relevant body of the United Nations.

147. The sponsor delegation suggested that some procedure closer to the second scenario, as presented by the Secretariat, could be utilized in dealing with its proposal. It suggested, in particular, inquiring of the Chairman of the Special Committee on Peacekeeping Operations whether that Committee might require the assistance of the Special Committee on the Charter in connection with the legal aspects of enhancing the effectiveness of United Nations peacekeeping. The point was made that such cooperation between the two committees, based on their specific nature, could be mutually beneficial and could contribute to the implementation of the decisions of the Millennium Summit.

148. The Chairman of the Special Committee referred to the information presented by the Secretariat at the previous session of the Special Committee as regards the possible convening of joint meetings or the establishment of joint working groups or other similar bodies of the General Assembly[26] and invited the delegations to present their views on the proposal put forward by the sponsor delegation for holding joint meetings between the Special Committee and other bodies of the United Nations system. She also noted that a decision of the General Assembly would be required for such a meeting to be held.

149. Some delegations reaffirmed the position they had expressed during previous sessions of the Special Committee. It was observed in particular that establishing the proposed joint mechanism or the holding of joint sessions would not be useful, particularly in view of the fact that the Special Committee on Peacekeeping Operations was currently discussing the report of the Panel on United Nations Peacekeeping Operations.[22] It was suggested that the Special Committee on the Charter could revert to the proposal after the relevant bodies had completed their discussions on the above-mentioned report. The point was made that holding joint meetings could pose practical and procedural problems since the chairmanship of certain committees did not extend beyond the duration of their sessions, which might not coincide in time, and it would be difficult to establish a proper reporting system on the results of such joint deliberations. It was suggested that the General Assembly could, instead, make a recommendation to the effect that both committees, for information purposes, should delegate on a mutual basis their representatives to each other's sessions whenever the issue of peacekeeping was being discussed.

150. The view was also expressed that, under the terms of its mandate approved by the General Assembly, the Special Committee on Peacekeeping Operations was the only forum entrusted to review the issue of peacekeeping in all its aspects and in a comprehensive fashion. The sponsor delegation was also encouraged by some delegations to submit its proposal to the Special Committee on Peacekeeping Operations. It was noted that the same approach could be followed by other delegations having proposals relevant to peacekeeping. On the other hand, the point was also made that, if the Special Committee on Peacekeeping Operations needed any legal assistance on questions relating to peacekeeping, it would have already sought the assistance of the Special Committee or of the Sixth Committee.

151. The view was also expressed that the Special Committee on the Charter, not being a legal committee per se, was not an appropriate body to deal with legal aspects of peacekeeping since issues of a legal nature had to be submitted to the Sixth Committee of the General Assembly. Thus, suggestions were made that the issue should be discussed at the next session of the General Assembly in the framework of the Sixth Committee and that the sponsor delegation should submit its proposal for its consideration by the Sixth Committee of the Assembly.

152. Other delegations reaffirmed that, in their view, the consideration of the proposal in question by the Special Committee on the Charter was entirely within its broad mandate. In their view, the Special Committee could offer its useful assistance to the Special Committee on Peacekeeping Operations, based on the proposal of the Russian Federation, which they viewed as timely and useful. The point was made that both committees were on the same footing and that their mutually complementary activities, not uncommon in the field of peacekeeping, should not be interpreted as duplication of work. Support was expressed for keeping the proposal on the agenda of the Special Committee and for adopting a relevant recommendation or decision to be submitted to the General Assembly. Some delegations observed that the possibility of holding a joint meeting or establishing a joint working group should not be ruled out. Support was also expressed for drawing up a recommendation addressed to the General Assembly to convene such a working group.

153. In response, the sponsor delegation observed that it was not suggesting at the current stage the convening of joint meetings or the establishment of joint working groups even though, in accordance with the existing practice of the Organization, such a course of action could be pursued in the future by the General Assembly if there was a recommendation of the Special Committee on the Charter to that effect. The sponsor delegation suggested offering the Special Committee on Peacekeeping Operations the assistance of the Special Committee on the Charter in dealing with the legal aspects of enhancing the effectiveness of the United Nations peacekeeping operations. In the view of the sponsor delegation, such an offer should be interpreted not as interference with the mandate of the Special Committee on Peacekeeping Operations, but rather as an attempt to utilize the legal expertise of the Special Committee on the Charter and of the Sixth Committee in dealing with new legal questions of peacekeeping which had not been on the agenda of the Special Committee on Peacekeeping Operations at the time its original comprehensive mandate had been devised. The sponsor delegation also observed that, apart from the Special Committee on Peacekeeping Operations, many other bodies of the United Nations as well as regional and subregional organizations had already been actively involved in the consideration of various aspects of peacekeeping. New challenges facing the international community in that field, linked to issues such as the emergence of international and domestic "new-generation" conflicts — inter-ethnic, religious and others — had created the need to address their prevention and settlement on the basis of mutually beneficial cooperation between various relevant institutions and the proper utilization of their expertise in that field. In conclusion the sponsor delegation stated that the adequate means of interaction and mutual assistance of the two committees could be formulated, if not during the current year, in the following year, which would be in line with the efforts of the Special Committee to improve the organization of its work and the tasks put forward by the Millennium Declaration.

154. The sponsor delegation suggested that, in view of the mandate of the Special Committee on Peacekeeping Operations and in order to improve coordination as provided by the General Assembly in its resolution 55/156, the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should recommend that the working

paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" (A/AC.182/L.89/Add.2 and Corr.1) together with the relevant background materials should be transmitted to the Special Committee on Peacekeeping Operations for consideration in order to seek its views as to what legal aspects of the United Nations peacekeeping operations could be considered by the two Special Committees in cooperation and in what way the Special Committee on the Charter might assist the Special Committee on Peacekeeping Operations in the process of elaborating the legal aspects of United Nations peacekeeping.

155. Some delegations, however, stated that they could not support the proposed recommendation, stressing that, in their view, there was no consensus on the working paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations". The point was made that the sponsor delegation should follow the suggested procedure outlined in option (a) in paragraph 146 above.

E. Consideration of the working papers submitted by Cuba at the 1997 and 1998 sessions of the Special Committee, entitled "Strengthening of the role of the Organization and enhancing its effectiveness"

156. During the general debate held at the 236th meeting of the Committee, the delegation of Cuba reiterated the viability of its proposals submitted at earlier sessions of the Committee,[27] stating that they were concerned with the revitalization of the role of the General Assembly, a subject addressed in the Millennium Declaration.[28]

157. At the 4th meeting of the Working Group, the delegation of Cuba referred to its working paper entitled "Strengthening of the role of the Organization and enhancing its effectiveness" (A/AC.182/L.93 and Add.1), submitted at the 1998 session[29] of the Committee, and observed that the issues highlighted in the working paper remained relevant. At the outset, it noted that, despite the contrary views of some Member States expressed at previous sessions of the Special Committee, the Committee was, under the broad mandate of General Assembly resolution 3499 (XXX) of 15 December 1975, competent to discuss issues relating to the strengthening of the role of the Organization, particularly matters relating to the maintenance of international peace and security, and that such a discussion did not duplicate but complemented efforts of other bodies. In the view of the sponsor delegation, it was extremely vital that urgent measures should be taken to revitalize the role of the General Assembly, which a majority of Member States considered was increasingly being marginalized and impeded from taking up priority items critical to the functioning of the Organization.

158. In justifying the continued relevance of its proposal and offering reasons for its consideration by the Committee, the sponsor delegation, first and foremost, underlined that in the Millennium Declaration, the heads of State and Government of Member States had not only reaffirmed the central position of the General Assembly as the chief deliberative, policy-making and representative organ of the United Nations but also resolved to enable it to play that role effectively and to intensify efforts to achieve a comprehensive reform of the Security Council in all its aspects.

159. The proposal of the sponsor delegation was intended to achieve similar objectives, and in not taking it up earlier the Special Committee had missed an opportunity to contribute meaningfully to the examination of the respective functions and responsibilities of the General Assembly and the Security Council, especially under Chapters VI, VII and VIII of the Charter of the United Nations, in order to ensure that the Assembly was able to exercise its broad functions effectively under Articles 10, 11, 13 and 14. In the view of the sponsor, it was important to address the imbalance, which had arisen as a result of a distortion of the role of the Security Council in matters relating to international peace and security. Practice indicated that all important decisions affecting the Organization were being adopted outside the General Assembly. In addition, the undue expansion of the agenda of the Security Council demonstrated that it was encroaching upon the activities of the General Assembly. The sponsor delegation pointed out that the reform exercise did not reflect fully the role that the General Assembly should play in the consideration of priority items. The question of revitalization entailed not only a discussion of efficiency; it was primarily a question of democratization, and the General Assembly was the

only body with universal membership and had no power of veto.

160. Furthermore, the sponsor delegation alluded to General Assembly resolution 55/162 of 14 December 2000 on the follow-up to the outcome of the Millennium Summit, in which the Assembly had called upon all relevant organs, organizations and bodies of the United Nations system to become involved in the follow-up to the Summit. The Special Committee, as a subsidiary organ of the General Assembly, had a role in the realization of the outcomes of the Millennium Summit. The sponsor also made reference to and welcomed the convening by the President of the General Assembly of the informal brainstorming consultations of the General Committee on improving the working methods of the General Assembly, at which consideration was being given to the question of the implementation of annex I to General Assembly resolution 48/264 of 29 July 1994, entitled "Revitalization of the work of the General Assembly", and the annex to General Assembly resolution 51/241 of 31 July 1997, entitled "Strengthening of the United Nations system". Although the process was informal, the Special Committee could, in the view of the sponsor delegation, make a contribution to such efforts, which were aimed at making the General Assembly more efficient in the use of resources and more effective in its outcomes. It regretted the fact that the Special Committee did not seem to be receptive to the possibility of considering questions relating to the reform of the Organization. Its proposal offered basic guidelines and criteria which could form the basis for the review of the practices of the General Assembly and the other organs in the maintenance of international peace and security. An appeal was therefore made to the Special Committee to respond to the challenges posed.

161. During the general exchange of views held at the 236th meeting of the Committee and in the ensuing discussions in the Working Group, several delegations expressed their support for the proposal put forward by the sponsor delegation, with some noting the urgent need to translate into reality the concept of democracy within the United Nations. According to that view, it was necessary to establish a balance in the activities of the General Assembly and the Security Council in the exercise of their respective functions, particularly in the maintenance of international peace and security. The point was also made that there was an increasing tendency for some members of the Security Council to use it to secure the adoption of resolutions which only served their own interests or to bypass its involvement and act without its authority, even in situations which clearly fell within the Council's competence. In that connection, particular support was expressed for the possibility of the Special Committee discussing the two ideas identified in paragraph 115 (a) and (b) of its report of the 2000 session.[30] It was further noted that such a consideration would guarantee respect for the principles and purposes of the Charter of the United Nations.

162. In the course of the discussion, the sponsor delegation proposed a recommendation from the Special Committee to the Sixth Committee to the effect that "the Special Committee recognizes the necessity to adopt urgent and appropriate measures within the United Nations with a view to ensuring that the functions and powers of the General Assembly can be effectively implemented or applied". In the view of the sponsor, it was necessary that the Special Committee should send a message of encouragement and support for the work of the General Assembly in matters relating to the revitalization of the work of the United Nations.

163. The proposed recommendation was supported by several delegations. Other delegations, however, expressed their doubts as to the procedure as well as the form such a recommendation would take. A request for clarification was also made on whether the draft recommendation replaced the previous proposals made by the sponsor delegation.

164. In response, the sponsor delegation noted that procedurally it would depend on what the Sixth Committee of the General Assembly would decide. The nature of the recommendation was a matter that the Special Committee would have to consider in accordance with the usual practice, and any agreed text of such a recommendation would be reflected in its report. The sponsor delegation also stated that the proposed procedural recommendation was not intended to replace its earlier proposals.

165. Some delegations expressed their readiness to examine any written recommendation submitted by the sponsor delegation. One delegation expressed doubts as to the usefulness or appropriateness of the continued consideration of the sponsor delegation's proposal.

166. The Special Committee recognized the value of continuing to consider measures within the United Nations with a view to ensuring the revitalization of the General Assembly as the chief deliberative, policy-

making and representative organ of the United Nations in order to exercise effectively and efficiently the functions assigned to it under the Charter of the United Nations.

167. The Special Committee recognized the important efforts being undertaken by the President of the General Assembly to improve the working methods of the General Assembly.

F. Consideration of the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

168. At the 5th meeting of the Working Group, on 4 April 2001, the delegation of the Libyan Arab Jamahiriya referred to its revised proposal under the above title (A/AC.182/L.99), submitted at the 1998 session of the Committee,[31] noting that it had been motivated by the desire to improve and enhance the effectiveness of the United Nations. The changes in international affairs provided challenges and opportunities, which required the United Nations to enhance the role of its principal organs, taking into account established practice and experience. In its view, the Special Committee, as a legal forum, was well placed to consider ways and means of revitalizing the Organization and improving its working methods in order to ensure that its organs fulfilled their mandates efficiently. The sponsor delegation's proposal, which outlined the general parameters for enhancing the role of the Organization, contained certain elements similar to the proposal submitted by the delegation of Cuba concerning the strengthening of the role of the organization (see paras. 156-167 above). Both proposals were aimed at enhancing coordination between the General Assembly and the Security Council, focusing on issues on which the two organs had a common responsibility. Although the two proposals had the same goal, the proposal of the Libyan Arab Jamahiriya was more concerned with the working methods of the Security Council. It contended that previous experience and an objective evaluation of the practice of the Organization revealed the importance of according the General Assembly a prominent role in questions relating to the maintenance of international peace and security since it was more democratic, representative and universal. While recognizing the historical significance and practical reasons for some of the practices and procedures, it was claimed that the changed circumstances, with the Organization undergoing many major changes, required commensurate responses, including the removal of certain practices which had become anachronistic. In particular, it was vital to improve the working methods and mechanisms of the Security Council in order to ensure objectivity, effectiveness and transparency. The Security Council should not be perceived as an organ that only served the interests of one power or a group of States.

169. Referring to certain paragraphs of its proposal, the sponsor stressed that the rule requiring the concurring votes of the permanent members of the Security Council often impeded the effective functioning of the Council and was frequently utilized to advance the interests of one State or a group of States. The rule should not be used to obstruct the work of the Organization. The sponsor delegation also underscored the urgent need to make both quantitative and qualitative improvements to the composition and the work of the Security Council. In that connection, it also pointed out that it was necessary to further clarify the procedural matters affected by the application of Article 27, paragraph 2, as well as issues relating to the application of the provisions of Article 31 of the Charter of the United Nations.

170. Moreover, the sponsor delegation noted that it was necessary to define in a precise manner what constituted a threat to international peace and security in order to avoid the arbitrary determination by the Security Council of the existence of a threat to international peace and security even in situations where no such threat existed. The delegation observed that not all situations that had been determined by the Security Council as endangering international peace and security and therefore subject to the application of the measures contemplated in Chapter VII of the Charter of the United Nations were actually so, and some States, including its own, were suffering hardship as a consequence.

171. During the general exchange of views held at the 236th meeting of the Committee and in the ensuing discussion in the Working Group, some delegations expressed their support for the proposal of the delegation of the Libyan Arab Jamahiriya. It was suggested that the seven points raised in the proposal

should be considered on a priority basis and accorded a detailed paragraph-by-paragraph analysis in the future. Although some of the issues were being discussed in other bodies within the United Nations system, the Committee provided valuable input. The point was made that the far-reaching changes that were taking place in international affairs required courageous and creative responses. Emphasis was placed upon the importance of establishing a strong Organization that was based on the principles of the sovereign equality of States, respect for the territorial integrity of States and political independence, and the resolution of disputes by peaceful means, and that conducted itself in conformity with the principles of justice and international law, principles to which the Heads of State and Government had rededicated themselves to upholding in the Millennium Declaration.

172. The view was also expressed that the use of double standards in the application of the provisions of Chapter VII of the Charter of the United Nations, particularly with regard to the imposition and implementation of sanctions, undermined the credibility of the Security Council. The need to restore the balance between the General Assembly and the Security Council was also noted, and the point was made that that could only be achieved through structural reforms of the Council.

173. While acknowledging that the proposal raised interesting ideas and important points of principle, the view was expressed that since 1998, when the proposal had first been submitted, many positive developments had taken place and some of the aspects in the proposal had been subsumed in the work of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council. In that context, it was observed that the progress that the Open-ended Working Group had registered in recent years was largely with respect to issues related to the working methods of the Security Council (cluster II issues). For example, it had discussed or was making good progress on the relationship between the General Assembly and the Security Council, the use of the veto and the application of Articles 27 and 31. It was also stated that the question of equitable representation and increase in the membership was the raison d'être of the Open-ended Working Group, issues similar to those raised in the proposal by the Libyan Arab Jamahiriya. In that regard, it was suggested that the ideas and suggestions contained in the proposal could provide useful input to the body discussing issues relating to reform of the Security Council.

174. In concluding, the sponsor thanked delegations for their views and comments, noting that the ideas contained in its proposal were not necessarily new. The dawn of the new millennium, however, constituted a good opportunity to remove some of the imbalances and to eliminate practices which were contrary to the principles of justice and transparency governing the work of the Organization. The sponsor delegation observed that the Millennium Declaration had confirmed the continued need to address the concerns in its proposal, and it was willing to continue the dialogue.

G. Consideration of the revised working paper submitted by Belarus and the Russian Federation

175. During the general exchange of views held at the 236th meeting of the Special Committee, reference was made to the idea contained in the proposal submitted by Belarus and the Russian Federation at a previous session of the Special Committee (A/AC.182/L.104/Rev.1)[32] to recommend that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States, either without the prior authorization of the Security Council or outside the context of self-defence.

176. Some delegations voiced their support for the proposal. In that connection, it was stated that the marginalization of the General Assembly prevented it from playing its due role in the maintenance of international peace and security, while at the same time the Security Council seemed to be paralysed in the discharge of its responsibilities in this area because of the attitude of certain States exercising their veto power.

177. On the other hand, some delegations reiterated their view that it would not be useful to request an advisory opinion of the Court on the issue.

178. The proposal was further discussed in the Working Group. At the 3rd meeting, the Russian

Federation introduced the following revised version of the proposal by its sponsors (A/AC.182/L.104/Rev.2):

"The Special Committee submits to the General Assembly at its fifty-sixth session for consideration and adoption the following draft resolution:

'*The General Assembly*,

'*Reaffirming* that, pursuant to the Charter of the United Nations, the maintenance of international peace and security and the development of friendly relations and cooperation among States are one of the basic purposes of the Organization,

'*Confirming* the principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of States, or in any other manner inconsistent with the purposes of the United Nations, and also that the threat or use of force is a violation of international law and of the Charter of the United Nations,

'*Recalling once again* that no considerations, whether political, economic, military or of any other kind, may be used to justify the threat or use of force in violation of the Charter of the United Nations,

'*Recalling* the primary responsibility of the Security Council pursuant to the Charter of the United Nations for the maintenance of international peace and security,

'*Referring* to Chapter VIII of the Charter of the United Nations, which acknowledges the role of regional arrangements or agencies in dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the United Nations,

'*Recalling* that the General Assembly may request the International Court of Justice to give an advisory opinion on any legal question,

'1. *Affirms* that action by air, sea or land forces of all Members of the United Nations or by some of them for purposes of the maintenance of international peace and security is permissible only on the basis of a decision of the Security Council pursuant to Chapter VII of the Charter of the United Nations or in exercise of the inherent right of individual or collective self-defence pursuant to Article 51 of the Charter of the United Nations;

'2. *Emphasizes* the immutability of the provisions of Article 53, paragraph 1, of the Charter of the United Nations to the effect, inter alia, that no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council;

'3. Pursuant to Article 96, paragraph 1, of the Charter of the United Nations, *requests* the International Court of Justice to give an advisory opinion on the following legal questions:

- Does a State or group of States have the right to make use of armed force without a decision of the Security Council taken pursuant to Chapter VII of the Charter of the United Nations, except in exercise of the right to individual or collective self-defence pursuant to Article 51 of the Charter?
- Is such use of armed force a violation of the obligations of that State or group of States under the Charter of the United Nations?'"

179. In introducing the revised proposal, the representative of the Russian Federation reiterated the importance of requesting an advisory opinion from the International Court of Justice, the main judicial organ of the Organization, on such a complex legal issue. It pointed out that the proposal was in no way meant to embarrass a State or a group of States, but that its objective was to attain clarity on the matter. The representative recalled that there was some experience in requesting advisory opinions of the Court on a

number of legal issues that had some similarities with the current proposal and that, although an advisory opinion had no binding legal effect, it would nonetheless help in resolving disputes and differences on the matter. The representative recalled that the preambular paragraphs reiterated the principles and purposes of the Charter of the United Nations concerning, inter alia, the maintenance of international peace and security, the primary responsibility of the Security Council in that regard, the development of friendly relations among States, the threat or use of force and the possibility for the General Assembly to request an advisory opinion of the Court.

180. The representative of the Russian Federation stated that operative paragraph 1 would affirm that action by all or some Members of the United Nations would only be permissible, outside the context of self-defence, on the basis of a decision of the Security Council; that operative paragraph 2 would emphasize the immutability of Article 53, paragraph 1, of the Charter, whereby no enforcement action might be taken by regional arrangements or regional agencies without the authorization of the Security Council; and that operative paragraph 3 would clearly state the questions posed to the Court.

181. Some delegations voiced their support for the proposal and expressed the hope that consensus could be attained thereon. The point was made that the proposal merited support, inter alia, because: its ideas complied fully with the principles of international law and the Charter of the United Nations; in recent years there had been increased resort to unilateral military operations without the prior approval of the Security Council; there had been a manipulation of the rules of international law and some States had resorted to the threat or use of force to further their own policies; the request of an advisory opinion from the Court would serve to enhance the Charter of the United Nations. In addition, it was stated that direct or indirect opposition to the proposal could be construed as casting doubt upon the integrity of the Court. Furthermore, it was indicated that the proposal was useful because the practice of the United Nations with regard to the use of force by regional organizations was unclear.

182. Comments were also expressed concerning the drafting of the proposal. A suggestion was made to amend operative paragraph 1 by replacing the words "or by some of them" by the words "or by any of them" in order to cover the action which could be carried out by a single State. It was also suggested that General Assembly resolution 49/75 K of 15 December 1994 could serve as a model for formulating the request for an advisory opinion. The preambular paragraphs of the proposal could be reduced in number and the operative part limited to one paragraph containing the formulation of a legal question that could seek to provide clear guidance to States, for example, as to when the use of force was permissible under international law.

183. Other delegations, however, reiterated their views that it was neither useful nor appropriate to request an advisory opinion on the matter for the reasons which had been reflected in the reports of the Special Committee on its past two sessions.[33] In that connection, the question was raised as to whether the Special Committee should continue to devote additional time to the proposal.

184. According to another view, it would be opportune to reaffirm the principles on the non-use of force and its related concepts contained in the Charter, as indicated in operative paragraphs 1 and 2 of the proposal.

185. Nonetheless, the view was expressed that operative paragraph 2 posed difficulties since it was formulated in categorical terms; there were certain situations that could threaten international peace and security where, in the absence of a decision by the Security Council, a regional organization might have to take action. In that regard attention was drawn to Article 54 of the Charter.

186. In relation to operative paragraph 3, the need for greater analysis was indicated since the questions contained therein seemed to contradict operative paragraph 1 and might be interpreted as suggesting that conduct in violation of the provisions of the Charter on the use of force was, under certain circumstances, an acceptable alternative for States. It was also stated that there might not be a need to request an advisory opinion on the questions in operative paragraph 3 if the answers could already be found in the preceding paragraphs of the same proposal. Consequently, the view was expressed that the sponsors could, in the light of the discussion, reformulate the questions to be posed to the Court.

187. As regards the procedure, the point was made that, in case consensus on the matter could not be attained within the Special Committee, it would be

possible to submit the request for an advisory opinion directly to the General Assembly. In that connection, it was pointed out that a request by the Assembly for an advisory opinion on the matter would require an explicit authorization by the Security Council. It was noted, on the other hand, that Article 96, paragraph 1, of the Charter empowered the General Assembly to request the International Court of Justice to give an advisory opinion on any legal question.

Chapter IV
Peaceful settlement of disputes

Consideration of the revised proposal submitted by Sierra Leone and the United Kingdom of Great Britain and Northern Ireland on dispute prevention and settlement

188. During the general exchange of views held at the 236th meeting of the Special Committee, some delegations recalled that the revised informal working paper sponsored by the delegations of Sierra Leone and the United Kingdom of Great Britain and Northern Ireland had received wide support at the 2000 session and expressed the hope that the Special Committee would conclude its consideration of the proposal at the current session. Other delegations, while supporting the proposal as a basis for further work, pointed out that it essentially focused on dispute settlement and did not adequately reflect the scope of its title. In that regard, they reiterated their view that in the future work on the proposal, dispute prevention and dispute settlement should be accorded equal treatment.

189. At the 7th meeting of the Working Group, the delegations of Sierra Leone and the United Kingdom submitted a working paper containing a further revised draft resolution on dispute prevention and settlement (A/AC.182/L.111), which read as follows:

"*The General Assembly*,

"*Recalling* Article 33 of the Charter of the United Nations, and underlining the obligation of Member States to seek a solution of their disputes by peaceful means of their own choice,

"*Noting with appreciation* the work done during recent sessions of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization to encourage States to focus on the need to settle peacefully disputes between them at an early stage before they are likely to endanger the maintenance of international peace and security,

"*Emphasizing* the importance of early warning in order to prevent disputes, and emphasizing also the need to promote the peaceful settlement of disputes,

"*Recalling* the various procedures and methods for prevention of disputes and the peaceful settlement of disputes available to States, including fact-finding missions, good-will missions, special envoys, observers, good offices, mediation, conciliation and arbitration,

"*Recalling also* its previous relevant resolutions and decisions, in particular resolution 2329 (XXII) of 18 December 1967, in which it requested the Secretary-General to prepare a register of experts whose services States parties to a dispute might use for fact-finding in relation to the dispute; decision 44/415 of 4 December 1989, the annex to which contains a draft document on resort to a commission of good offices, mediation or conciliation within the United Nations; and resolution 50/50 of 11 December 1995, the annex to which contains the United Nations Model Rules for the Conciliation of Disputes between States,

"*Noting with satisfaction* that, pursuant to its recommendation contained in resolution 47/120 A of 18 December 1992, the Secretary-General established a list of eminent and qualified experts to his use in fact-finding and other missions, and that this list has recently been updated,

"*Recalling further* that certain multilateral treaties provide for the creation of lists of conciliators and arbitrators for use by States in the settlement of their disputes,

"*Reaffirming* the important role played by the International Court of Justice and the International Tribunal for the Law of the Sea in the settlement of disputes between States,

"1. *Urges* States parties to any dispute to make the most effective use of existing procedures and methods for the prevention and settlement of disputes;

"2. *Reaffirms* the duty of all States to find peaceful means by which to settle any dispute to which they are parties before such dispute is likely to

endanger the maintenance of international peace and security, and encourages States to settle their international disputes as early as possible;

"3. *Takes note* of the paper prepared by the Secretariat entitled 'Mechanisms established by the General Assembly in the context of dispute prevention and settlement';

"4. *Encourages* States to nominate suitably qualified persons who are willing to provide fact-finding services, for inclusion in the register set up by the Secretary-General pursuant to paragraph 4 of its resolution 2329 (XXII) of 19 December 1967;

"5. *Encourages* eligible States also to nominate suitably qualified persons to have their names included in the lists of conciliators and arbitrators provided for under certain treaties, including the Vienna Convention on the Law of Treaties and the United Nations Convention on the Law of the Sea;

"6. *Requests* the Secretary-General to take such steps as he deems necessary from time to time to encourage States to designate suitably qualified persons for inclusion in the various lists referred to above which he has responsibility to maintain;

"7. *Reminds* States that have not already done so that they may at any time make a declaration under Article 36, paragraph 2, of the Statute of the International Court of Justice with regard to its compulsory jurisdiction, and encourages them to consider doing so."

190. In introducing the document, the delegation of Sierra Leone stated that the working paper had been revised in the light of the comments and suggestions made in the Special Committee at its 2000 session. Consequently, several paragraphs had been reorganized, combined or deleted with a view mainly to avoiding repetition.

191. In addition, the co-sponsor delegation recalled the differences of opinion expressed with regard to the fourth preambular paragraph during the 2000 session and remarked that in revising the draft there had been no attempt to make the list exhaustive. At the same time, it had been considered desirable to include at least the traditional means of settlement. The co-sponsor also noted that a new operative paragraph 7 had been introduced, encouraging States that had not yet done so to consider making the declaration under Article 36, paragraph 2, of the Statute of the International Court of Justice, recognizing as compulsory, ipso facto, the jurisdiction of the Court.

192. The co-sponsor delegation drew attention to other amendments that had been introduced into the working paper. In the first preambular paragraph, the phrase "their own choice" had been used instead of "their choice", to ensure compatibility with Article 33 of the Charter; in the second preambular paragraph, the reference to the delegation of Sierra Leone had been deleted; in the third preambular paragraph, a reference to the importance of early warning in order to prevent disputes had been added to accommodate the views expressed previously by delegations. In the fourth preambular paragraph, the reference to "arbitration" as a means of dispute settlement had been added to the list; and the reference to the Secretary-General had been deleted from the sixth preambular paragraph in order to expand the list of treaties contemplated. Finally, no changes had been made to the fifth, seventh and eighth preambular paragraphs.

193. With regard to the operative paragraphs, the co-sponsor delegation noted that most of them had been rearranged: current operative paragraph 1 was formerly paragraph 5; current operative paragraph 2 combined the previous paragraphs 1 and 2; operative paragraph 3 was formerly paragraph 4; current operative paragraph 4 had previously been paragraph 6; current operative paragraph 5, with the deletion of the reference to the Secretary-General, was former paragraph 7; operative paragraph 6 had previously been paragraph 9; and operative paragraph 7 was new.

194. The two sponsor delegations of the working paper expressed their hope that the Special Committee would be in a position to conclude its consideration of the proposal during the current session.

195. During the 8th and 9th meetings of the Working Group, in their general comments, delegations expressed their support for the revised working paper, which they remarked had taken into account various points raised by delegations during the 2000 session. Delegations expressed the wish that the Special Committee would be in a position to conclude its consideration of the proposal during the current session. Several delegations indicated their readiness to adopt the working paper as presented without amendment.

196. Several delegations welcomed the fact that the revised working paper continued to place emphasis on

the existing means of settlement of disputes and on the principle of free choice of means.

197. The view was expressed that prevention, which had to be considered in the same continuum as the peaceful settlement of disputes, was an important cost-effective tool for the maintenance of international peace and security. In addition, it was reiterated that the proposal should pay greater attention to the question of prevention. In that connection, emphasis was placed on the importance of ensuring that for each preambular paragraph there was a corresponding operative paragraph.

198. While welcoming the revised proposal, some delegations were of the view that it could be further enriched by taking into account recent developments as well as previous resolutions and declarations, in the adoption of which by the General Assembly the Special Committee had played an instrumental role. With regard to the former, reference was made to the United Nations Millennium Declaration[34] and the declaration of the Security Council on ensuring an effective role for the Security Council in the maintenance of international peace and security, particularly in Africa;[35] and concerning the latter, mention was made of the Manila Declaration on the Peaceful Settlement of International Disputes,[36] the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field,[37] the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security[38] and the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security.[39]

199. It was also suggested that it was necessary to underscore and therefore reflect the role of the General Assembly, the Security Council and the International Court of Justice in the peaceful settlement of disputes. Similarly, it was considered crucial to highlight the importance of third-party dispute settlement mechanisms, which were being increasingly resorted to in recent years, such as the use of regional and subregional agencies or arrangements, special representatives and special envoys. At the same time, a comment was made that it would be necessary to reflect upon the difficulties encountered by and the drawbacks of such mechanisms.

200. In addition, the view was expressed that consideration should be given to the possibility of reflecting in the draft resolution the need to develop a comprehensive approach to the settlement of disputes as part of the whole concept of collective security, a matter which had most recently been addressed during the Millennium Summit and by the Secretary-General in his reports.[40]

201. It was also noted that it was desirable to be practically oriented and to submit proposals which could be the subject of further elaboration in the future. For example, it was suggested that the *Handbook on the Peaceful Settlement of Disputes between States*,[41] prepared by the Secretariat at the initiative of the Special Committee, could be updated in order to reflect the new trends and approaches in dispute prevention and settlement.

202. On the other hand, the point was made that the strength of the proposal was in its generality. According to this view, delving into specifics should be cautioned against, since such an approach would distort the balance that the working paper had managed to strike.

203. Following the general comments, the Working Group, at its 8th and 9th meetings, considered the revised working paper on a paragraph-by-paragraph basis. Although a proposal was made that the working paper could be entitled "Principles relating to the settlement of disputes between States", it was procedurally decided that the title would be discussed after the completion of the discussion on the text as a whole.

First preambular paragraph

204. It was observed that since Article 33 of the Charter was applicable to a dispute the continuance of which was likely to endanger the maintenance of international peace and security, it was necessary to reconsider the drafting of the paragraph, particularly if the draft resolution was intended to cover the prevention of such a dispute as well as a dispute which did not necessarily pose such a threat. The point was also made that the paragraph should also apply to "situations", considering that modern conflicts were intra-State in nature. Some delegations expressed their objection to any interpretation that implied that disputes other than international disputes were contemplated. It was mentioned that the disputes

envisaged in the draft would be settled on the basis of the Charter of the United Nations and in accordance with the principle of free choice of means. Other delegations supported the proposal as formulated, pointing out that the idea was to cover even those disputes which did not threaten international peace and security. It was also suggested that a formulation that would include the phrase "the purposes and principles of the United Nations" should be inserted between the words "*Recalling*" and "Article 33". Furthermore, it was suggested that the phrase "seek a solution to" should replace the phrase "seek a solution of".

Second preambular paragraph

205. A proposal was made to include the notion of dispute prevention in the paragraph, which was supported by some delegations, on the understanding that the sponsor delegations would see to the grammatical and drafting aspects. Some delegations objected to or reserved their position with regard to another proposal to delete the phrase "between them", pointing out that the working paper was concerned with disputes between States.

206. It was remarked that the suggestion to include references to the United Nations Millennium Declaration as well as to other relevant resolutions and declarations adopted by the General Assembly emanating from the Special Committee could be introduced in the present paragraph or in a separate, preceding paragraph. Some delegations expressed their support for such a reference, while others noted that such a citation could be relevant if it was restricted to recent achievements of the Special Committee. It was also suggested that all the relevant documents could be cited in a footnote. The observation was made that there would be a need to provide for a relevant corresponding formulation in the operative paragraph. The co-sponsor delegation cautioned against making proposals which would make the resolution cumbersome or emasculate its spirit. The proposal, which was subsequently submitted in writing at the request of some delegations, read as follows:

> "*Recalling* the Manila Declaration on the Peaceful Settlement of International Disputes, the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field, the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security, elaborated by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization and unanimously adopted by the General Assembly,
>
> "*Urging* all States to promote the realization of the United Nations Millennium Declaration and the Declaration of the Security Council on Ensuring an Effective Role for the Security Council in the Maintenance of International Peace and Security, particularly in Africa, adopted during the United Nations Millennium Summit."

Third preambular paragraph

207. It was suggested that the paragraph should include the notion of "early detection". Several delegations supported the proposal. At the same time, it was stated that such terms needed to be reflected in a clear and precise manner, using terms of common usage. In reply, it was observed that the concept already existed in the context of early warning and that States were usually the primary source of information on matters which were likely to give rise to a dispute or lead to the escalation of a situation. In that regard, the need to act in accordance with the Charter was acknowledged and reference was also made to Article 34 of the Charter. The point was also made that the same terminology should be employed throughout the text, as appropriate, where the same meaning was intended. In addition, the remark was made that ideas contained in the paragraph should be appropriately reflected in the corresponding operative paragraph.

Fourth preambular paragraph

208. A question was raised with regard to the meaning of the phrase "procedures and methods for prevention of disputes", and whether in fact such procedures and methods existed. It was suggested that the word "monitoring", which represented a useful preventive mechanism, should be inserted between the words "including" and "fact-finding".

209. It was observed that two important and widely recognized means for dispute settlement, namely negotiation and judicial settlement, which had been omitted from the list, should be included. The

suggestion was also made to add a reference to regional agencies or arrangements. In that connection, it was intimated that the language of Article 33 of the Charter should be followed. In a similar context, it was indicated that the phrase "available to States under the Charter of the United Nations" could be inserted following the word "methods".

210. The suggestion was also made to include a reference to the role of the General Assembly, the Security Council and regional arrangements. Such a paragraph, which could read "*Emphasizing* the need for strengthening the role of the Security Council, the General Assembly and regional arrangements in early warning and peaceful settlement of disputes and situations", could precede the current preambular paragraph.

211. It was contended that the paragraph should reflect two kinds of procedures: those employed directly by States in accordance with the Charter and those collective procedures available under the United Nations system. The need for a corresponding operative paragraph was emphasized.

Fifth preambular paragraph

212. No comments were made with regard to the fifth preambular paragraph.

Sixth preambular paragraph

213. It was suggested that "to his use" should read "for his use".

214. It was also pointed out that it could be desirable to acknowledge, perhaps in a separate preambular paragraph, the efforts of the United Nations in the area of the prevention of disputes. In that respect, reference was made to the examples referred to in footnote 9 in the note by the Secretariat on mechanisms established by the General Assembly in the context of dispute prevention and settlement,[42] which clearly showed that mechanisms for conflict prevention were in place within the Secretariat. Similarly, it was stressed that it would be useful to acknowledge the contribution of the *Handbook on the Peaceful Settlement of Disputes between States* prepared by the Secretariat under the supervision of the Special Committee. The remark was made that the *Handbook* was an invaluable source of material for use by States.

Seventh preambular paragraph

215. It was proposed that the phrase "with respect to such treaties" should be inserted at the end of the paragraph. In addition, in order to incorporate the notion of prevention, it was suggested that the words "prevention and" should be inserted between the words "the" and "settlement of disputes". However, doubts were expressed as to whether "conciliators" and "arbitrators" were ever involved in the prevention of disputes, noting that, traditionally, they had intervened in an existing dispute.

Eighth preambular paragraph

216. The comment was made that there should be a reference to the International Court of Justice "and other judicial bodies created under multilateral treaties", instead of singling out the International Tribunal for the Law of the Sea in the same context as the International Court of Justice, which was the principal judicial organ of the United Nations. Conversely, it was proposed that the International Court of Justice should be covered in a separate paragraph. Such a paragraph could be further enhanced by acknowledging the need to strengthen the functioning of the Court.

217. On the other hand, it was noted that the reference to the two judicial institutions was entirely appropriate since both were judicial institutions of a universal character. At the same time, the remark was made that it would be germane to acknowledge as well the role played by other judicial bodies, including those at the regional level. Such a provision could therefore be added.

Operative paragraph 1

218. A suggestion was made to insert the words "expeditious and" after the word "most" and to replace the words "existing procedures" by the words "various procedures". It was also proposed that operative paragraph 1 should be preceded by a paragraph reaffirming the obligations of States under the Charter of the United Nations and the principles of international law. The proposal, which was subsequently submitted in writing at the request of some delegations, read as follows:

> "*Reaffirms* its commitment to the purposes and principles of the Charter of the United Nations, in particular to the principles of

sovereign equality, national sovereignty, territorial integrity and political independence of all States, and stresses the importance of the non-threat or non-use of force in international relations in any manner inconsistent with the purposes of the United Nations, and of the peaceful settlement of disputes".

219. It was observed that it was difficult to envision "parties to a dispute" using measures of prevention to a dispute which was not yet in existence. Consequently, a proposal was made to redraft the paragraph to remove the contradiction that seemed to arise as a result of combining the concepts of "prevention" and "settlement" in the same paragraph. Such a contradiction could be removed by deleting the reference to "parties to any disputes".

Operative paragraph 2

220. A proposal was made to insert the phrase "in accordance with the Charter of the United Nations" immediately after the word "States". In addition, the point was made that the duty was to "settle using peaceful means" and not to "find peaceful means". It was therefore proposed to replace "find" by "use" or a term consistent with Article 33 of the Charter.

221. Suggestions were also made to delete the word "international" between the words "their" and "disputes" and to replace the phrase "as early as possible" by the phrase "at an early stage". In the same context, a question was raised with regard to the import of the term "as early as possible". In that connection, it was contended that it was much more important that a dispute be settled "on the basis of international law, the Charter of the United Nations or on a just, durable basis" than "as early as possible".

Operative paragraph 3

222. It was proposed that the paragraph should include a request to the Secretary-General to update the *Handbook on the Peaceful Settlement of Disputes between States*.

223. The need to include a reference to the note by the Secretariat was also indicated.

Operative paragraph 4

224. No comments were made with regard to operative paragraph 4.

Operative paragraph 5

225. In response to a question regarding the reference to "suitably qualified persons", the co-sponsor delegation noted that in one sense the term referred to the question of eligibility to participate, which was often determined by the terms of the treaty in question. For example, a State that was not a party to the treaty would, unless the treaty provided otherwise, be ineligible to designate a conciliator or an arbitrator. The term was also concerned with the question of competence, implying that the person nominated should possess the necessary qualifications required to perform the functions of conciliator or arbitrator.

226. The point was made that it was not necessary to specifically single out the Vienna Convention on the Law of Treaties and the United Nations Convention on the Law of the Sea. In response, it was observed that the two conventions were the only multilateral conventions with universal application that established lists of conciliators or arbitrators.

Operative paragraph 6

227. A proposal was made to delete the phrase "take such steps as he deems necessary from time to time" in order to strengthen the content of the paragraph. Similarly, the suggestion was made to delete the phrase "as he deems necessary".

Operative paragraph 7

228. It was suggested to incorporate the principle of reciprocity as contained in paragraph 2 of Article 36 of the Statute of the International Court of Justice by inserting the phrase "in relation to any other State accepting the same obligation" after the word "jurisdiction".

229. Two proposals, which could form part of operative paragraph 7 or be treated separately, were put forward with respect to the International Court of Justice. The proposals, which were subsequently submitted in writing at the request of some delegations, read as follows:

> "*Urges* States to find practical ways and means to strengthen the International Court of Justice, as the principal judicial organ of the United Nations, taking into consideration, in particular, the needs resulting from its increased workload",

and

"*Resolves* to strengthen the International Court of Justice in order to ensure justice and the supremacy of law in international relations".

230. A point was raised regarding the meaning of the phrase "practical ways and means". It was contended in that connection that the obligation to address the question was on the United Nations and not States.

231. At the 12th meeting of the Working Group, the delegations of Sierra Leone and the United Kingdom submitted a further revised draft resolution on dispute prevention and settlement entitled "Principles for the prevention and peaceful settlement of disputes" (A/AC.182/L.111/Rev.1), which read as follows:

"*The General Assembly*,

"*Recalling* the purposes and principles of the Charter of the United Nations,

"*Recalling*, in particular, Article 33 of the Charter of the United Nations, and underlining the obligation of Member States to seek a solution to their disputes by peaceful means of their own choice,

"*Noting with appreciation* the work done since its fifty-second session by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization to encourage States to focus on the need to prevent and to settle peacefully their disputes before they are likely to endanger the maintenance of international peace and security,

"*Emphasizing* the importance of early warning in order to prevent disputes, and also emphasizing the need to promote the peaceful settlement of disputes,

"*Recalling* the various procedures and methods available to States for the prevention and peaceful settlement of their disputes, including those provided for in Article 33 of the Charter, as well as monitoring, fact-finding missions, goodwill missions, special envoys, observers and good offices,

"*Also recalling* its previous relevant resolutions and decisions, in particular resolution 2329 (XXII) of 18 December 1967, in which it requested the Secretary-General to prepare a register of experts whose services States parties to a dispute might use for fact-finding in relation to the dispute, decision 44/415 of 4 December 1989, the annex to which contains a draft document on resort to a commission of good offices, mediation or conciliation within the United Nations, and resolution 50/50 of 11 December 1995, the annex to which contains the United Nations Model Rules for the Conciliation of Disputes between States,

"*Noting with satisfaction* that, pursuant to the recommendation contained in its resolution 47/120 of 18 December 1992, the Secretary-General established a list of eminent and qualified experts for his use in fact-finding and other missions, and that this list has recently been updated,

"*Further recalling* that certain multilateral treaties provide for the creation of lists of conciliators and arbitrators for use by States in the settlement of their disputes,

"*Reaffirming* the important role played by the International Court of Justice and the International Tribunal for the Law of the Sea and other Tribunals in the settlement of disputes between States,

"1. *Urges* States to make the most effective use of existing procedures and methods for the prevention and settlement of their disputes;

"2. *Reaffirms* the duty of all States, in accordance with the principles of the Charter of the United Nations, to use peaceful means to settle any dispute to which they are parties before such dispute is likely to endanger the maintenance of international peace and security, and encourages States to settle their disputes as early as possible;

"2bis. *Encourages* States to cooperate with the Secretary-General in monitoring the state of international peace and security regularly and systematically in order to provide early warning of disputes and situations which might threaten international peace and security;

"3. *Takes note* of the paper prepared by the Secretariat entitled 'Mechanisms established

by the General Assembly in the context of dispute prevention and settlement";[43]

"4. *Encourages* States to nominate suitably qualified persons who are willing to provide fact-finding services, for inclusion in the register set up by the Secretary-General pursuant to paragraph 4 of its resolution 2329 (XXII) of 18 December 1967;

"5. *Encourages* eligible States to also nominate suitably qualified persons to have their names included in the lists of conciliators and arbitrators provided for under certain treaties, including the Vienna Convention on the Law of Treaties and the United Nations Convention on the Law of the Sea;

"6. *Requests* the Secretary-General to take such steps as he deems necessary from time to time to encourage States to designate suitably qualified persons for inclusion in the various lists referred to above which he has responsibility to maintain;

"7. *Reminds* States that have not yet done so that they may at any time make a declaration under Article 36, paragraph 2, of the Statute of the International Court of Justice with regard to its compulsory jurisdiction, and encourages them to consider doing so."

232. In its introductory remarks, the delegation of Sierra Leone expressed its appreciation for all the comments and observations made by delegations and noted that the sponsors had made an attempt to take into account many of the suggestions, particularly those that in the view of the sponsors seemed to have commanded majority support. It regretted that not all proposals were reflected in the text although all of them had been considered in good faith. The co-sponsor highlighted the various changes that had been incorporated in the text, noting in particular that a new title had been introduced, based on a proposal made earlier (see para. 203 above). As to operative paragraph 7, the sponsor delegations were flexible with regard to the proposal for the inclusion of language contained in Article 36, paragraph 2, of the Statute of the International Court of Justice, as suggested in the Working Group (see para. 228 above). In conclusion, the co-sponsor expressed the hope that the Special Committee would adopt the proposed draft resolution by consensus.

233. During the 13th meeting of the Working Group, the draft resolution was amended as follows: the reference to "principles for the" in the title was deleted and the phrase "in relation to any other State accepting the same obligation" was inserted after the word "jurisdiction" in operative paragraph 7.

234. The Working Group proceeded with a brief period of general comments, followed by a paragraph-by-paragraph discussion of the preamble.

235. Some delegations expressed their support for the draft resolution, as presented.

236. With reference to operative paragraph 2 bis, the comment was made that while one concern mentioned in the earlier discussion, namely that the concept of early warning in the preambular paragraph should have a corresponding provision in the operative part (see para. 207 above), had been taken into account, the paragraph did not address a second concern, that negotiation as a means of settlement should be covered in the draft and be reflected appropriately in the operative paragraphs (see paras. 208-211 above). Emphasis was placed upon the fundamental character of negotiation as a means of settlement and the fact that it was also often employed during the preliminary stages of a crisis and in that sense played a crucial role in the prevention of disputes. In reply, the co-sponsor noted that the aspect in question was covered in operative paragraph 2 and wondered whether the suggestion was to include another reference in paragraph 2 bis.

First preambular paragraph

237. The view was expressed that the paragraph should be preceded by a paragraph acknowledging the role of the Special Committee, by recalling its earlier resolutions and declarations (see para. 206 above).

238. It was also observed that in addition to the reference to the purposes and principles of the Charter there should be a reference to the obligation of States not to conduct their international relations in a manner that threatened international peace and security.

Second preambular paragraph

239. Support was expressed for the retention of the paragraph as drafted, while on the other hand a suggestion was made to delete the reference to "in

particular" since it seemed to place inappropriate emphasis on Article 33 of the Charter.

Third preambular paragraph

240. The suggestion was made that the paragraph should be preceded by a new preambular paragraph that would refer to the United Nations Millennium Declaration and the Declaration of the Security Council on Ensuring an Effective Role for the Security Council in the Maintenance of International Peace and Security, particularly in Africa, as proposed earlier (see para. 206 above).

241. It was also noted that the reference to the "fifty-second session" was inappropriate, since the Special Committee had made important contributions in the area of prevention and the peaceful settlement of disputes prior to that period. It was therefore proposed to delete such a reference or to revert to the original formulation. In clarification, the co-sponsor delegation observed that the paragraph was intended to acknowledge the role of the Special Committee in the proposal in its current form, as submitted by Sierra Leone in 1997.

242. A proposal was also made to delete the word "their" in order to broaden the scope of the concept of prevention and to encompass the role that non-State actors could play in this field. Several delegations objected to such a deletion. It was noted that the involvement of such actors was not precluded by the current formulation. It was also reiterated that the working paper was concerned with disputes between States. In addition, it was suggested that the word "or" should be used instead of "and" in the phrase "prevent and to settle". The suggestion was also made to replace the word "before" by "which", to emphasize that the disputes referred to were those that were likely to endanger international peace and security.

Fourth preambular paragraph

243. The proposal to incorporate the concept of "early detection" was repeated (see para. 207 above).

Fifth preambular paragraph

244. It was observed that the reference to "those provided for in Article 33 of the Charter" was not suitably placed and should be deleted or placed at the end of the sentence.

245. Mention was made once again of the importance of including a reference to the role of the General Assembly, the Security Council and regional arrangements, as reflected in paragraph 210 above, and the need to reflect procedures employed by States and those collective procedures available under the United Nations system, as described in paragraph 211 above.

246. In reply to a comment that a reference to mediation and conciliation should be reinstated in the text, the co-sponsor noted that those terms were intended to be implied in the phrase "those provided for in Article 33 of the Charter". In addition, a proposal was made to take cognizance of the efforts relating to prevention within the Secretariat, as reflected in paragraph 214 above. The proposal, which could be placed in a new, preceding paragraph, read as follows:

> "*Recalling also* its previous declarations and resolutions concerning dispute prevention which, inter alia, called upon the Secretary-General to make full use of the information-gathering capabilities of the Secretariat and emphasized the need to strengthen the capacity of the United Nations in the field of preventive diplomacy,"

Sixth preambular paragraph

247. No comments were made with regard to the sixth preambular paragraph.

Seventh preambular paragraph

248. The Secretariat was requested to advise on the efficacy of the system of establishing lists of experts and whether in practice such lists have been used by States.

Eighth preambular paragraph

249. No comments were made with regard to the eighth preambular paragraph.

Ninth preambular paragraph

250. Several delegations reiterated some of the comments reflected in paragraphs 216 and 217 above. In addition, the view was expressed that the tribunals referred to played an important preventive role. Commenting on the meaning of the phrase "other Tribunals", it was stressed that an appropriate formulation should be used to cover judicial organs at

the regional level, such as the European Court of Justice or the Court of Justice of the Andean Community, which played an important role in dispute settlement. It was understood that the term did not include tribunals whose competence *ratione personae* was individuals. On that account, it was noted that the term was not intended to include the international criminal tribunals created by the Security Council.

251. Owing to lack of time, the Working Group could not undertake a paragraph-by-paragraph discussion of the operative paragraphs of the revised working paper.

Chapter V
Proposals concerning the Trusteeship Council

252. During the general exchange of views held at the 236th meeting of the Special Committee, some delegations expressed the view that even though the Trusteeship Council might be considered as having fulfilled its historic mission, it would be premature to abolish it or to assign new functions to it. The point was made that keeping the organ in existence had no financial implications for the United Nations. It was observed that the abolition of the Council or changing its status would entail an amendment to the Charter of the United Nations, and therefore should be considered in the overall context of the reform of the Organization and the amendments to its Charter.

253. In the Working Group, the delegation of Malta referred to the proposal it had submitted earlier (A/50/142), to convert the Trusteeship Council into a coordinator for the global commons or the common heritage of mankind. It recalled that divergent views regarding the role of the Trusteeship Council, expressed by Member States either to the Secretary-General or during the debates in the Sixth Committee, had indicated that there was no general agreement on the issue. The three main views recalled in that connection were: to have the Council reconstituted as a guardian and trustee of the global commons and common concerns, as advocated by the sponsor delegation; to retain it since its historic mission had not yet been fulfilled and the Council could still prove useful; or to have the Council abolished since its mandate had been fulfilled.

254. The sponsor delegation reiterated its proposal that a revised Trusteeship Council would act in trust to safeguard the environment, protect the global commons and monitor the governance of the oceans, providing the impetus for international environmental governance and coordination. It also observed that assigning to the Council a role as focal point for the coordination of activities in related areas of the common heritage would be in line with the initiatives to promote the effectiveness of the United Nations.

255. The sponsor delegation observed that, in its view, the proposal had been endorsed by the Secretary-General in his note entitled "A new concept of trusteeship" (A/52/849) in the context of the reform of the Organization. In conclusion, the sponsor delegation reiterated its readiness to participate in the discussions aimed at examining the underlying principles of the suggested concept and the practical aspects of its implementation, noting that the Special Committee was a proper forum to consider the issue.

256. During the ensuing discussion, support was expressed by some delegations for keeping the issue of the role of the Trusteeship Council on the agenda of the Special Committee. Moreover, the view was expressed that the issue should be discussed among the priority issues on the agenda of the Committee. It was noted that the underlying concept of the proposal had been endorsed in the report of the Secretary-General referred to by the sponsor delegation and that its consideration in the light of recent and future developments in the areas of common concern would be in line with the efforts aimed at reforming the Organization. The point was made that the discussions within the framework of the United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs could provide an important context for the further development of the concept of a trusteeship over the global commons, which could benefit from the proposal by Malta.

257. Some delegations were of the view that the Trusteeship Council should not be abolished since a need for it might arise in the future, for example, in connection with the Organization assuming an administrative role in some Territories, and also taking into account that the Council's existence had no financial implications for the United Nations.

258. A cautious approach to assigning a new role to the Trusteeship Council was advocated by some

delegations since that might lead to a duplication of work with other bodies, both within and outside the United Nations, which were active in various related areas of the global commons. It might also lead to the need to change their mandates and amend numerous instruments establishing such bodies. The view was expressed that any new role envisaged in the future for the Trusteeship Council should ensure that the Council complemented, rather than duplicated, the work carried out by other bodies in related areas.

259. Reservations were expressed with regard to the proposal for a new role of the Trusteeship Council as a guardian of the common heritage of mankind. It was pointed out that any such change in the mandate of the Council would entail an amendment of the Charter of the United Nations and should be considered in the general context of Charter revision and the reform of the Organization. It was also stressed that the existence of the Council had no financial implications for the Organization and that either abolishing it or assigning to it a new role was not required at the current stage.

260. The view was expressed that, in fact, serious consideration should be given at the current stage to removing the Trusteeship Council from the books of the United Nations. This straightforward, technical revision of the Charter needed to be done even if there were certain global tasks that might be undertaken by some other new or replacement entity. All this was work that could be usefully done by the Special Committee, just as it had acted with respect to the removal of the "enemy State" provisions from the Charter.

Chapter VI

Repertory of Practice of United Nations Organs and *Repertoire of the Practice of the Security Council*

261. During the general exchange of views held at the 236th meeting of the Special Committee, some delegations commended the ongoing efforts by the Secretary-General aimed at reducing the backlog in the publication of the *Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*. Both publications were viewed as providing very important information regarding the implementation of the Charter of the United Nations and the work of its organs. It was noted that a Trust Fund for the updating of the *Repertoire of the Practice of the Security Council* had been established in May 2000, to which the United Kingdom, Germany, Portugal and Finland had already contributed.

262. Support was expressed for a speedy updating of the publications. The view was expressed that Member States should continue providing financial and other necessary assistance to the Secretariat to this effect and that the General Assembly should consider further ways and means of effectively addressing the problem. The view was expressed that, in particular, in spite of the considerable increase in the activities of the Security Council during recent years, the number of staff members of the Secretariat involved in the updating of the *Repertoire of the Practice of the Security Council* remained insufficient for the speedy preparation of that important publication.

Chapter VII

Working methods of the Special Committee, identification of new subjects, assistance to working groups on the revitalization of the work of the United Nations and coordination between the Special Committee and other working groups dealing with the reform of the Organization

A. Working methods of the Special Committee

263. During the general debate held at the 236th meeting, delegations underscored the importance of considering the working methods of the Special Committee on a priority basis. Some delegations stressed that the work of the Committee should be streamlined by, inter alia, concentrating at each session on a few selected topics, closely coordinating the work of the Committee with other United Nations bodies to avoid unnecessary duplication, setting time limits for the consideration of proposals, devising a cut-off mechanism for items that had not yielded any tangible results and considering certain items once every two or three years.

264. It was suggested that proposals should be submitted well in advance of sessions of the Special Committee to give delegations ample time to study them. A number of delegations pointed out that issues of continuing importance to the Committee as a whole should be identified and, in that regard, supported the idea of prioritization of the agenda items. Others, however, felt that all current agenda items should be treated equally.

265. It was further suggested that the Special Committee should establish rules indicating how proposals that did not attract a minimum level of acceptance ought to be treated. In that connection, the attention of the Committee was drawn to the debate in the General Assembly concerning the advisability of holding informal consultations for the purpose of identifying issues on which early decisions were possible. The view was expressed that a sponsor delegation's participation and flexibility in such informal consultations would allow it to evaluate, objectively and realistically, the degree of acceptance of its proposal. On the other hand, the point was made that any proposal could be withdrawn from the agenda only with the express consent of the sponsor delegation.

266. Furthermore, some delegations suggested that reports of the Special Committee should be adopted in the same manner as those of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996. On the other hand, it was observed that such an approach would be impractical since the two committees did not follow the same working methods in the substantive consideration of the agenda items before them.

267. Some delegations expressed support for certain ideas of the revised working paper (A/AC.182/L.108) submitted by Japan at the 2000 session of the Special Committee and hoped that consensus could be reached on it at the current session.

268. The above-mentioned revised working paper was considered at the 10th to 12th meetings of the Working Group.

269. In the Working Group, the sponsor delegation referred to the revised working paper contained in paragraph 195 of the report of the Special Committee on its 2000 session.[44] It recalled that the paper had not been discussed at that session. The sponsor delegation indicated that the revised paper strove to take into account as fully as possible the numerous suggestions made at the previous session of the Committee. While expressing flexibility and openness regarding its proposal, the sponsor stressed that the general thrust thereof was to ensure that the Committee's work become more effective, constructive and results-oriented, and expressed the hope that it would be possible to finalize the examination of the provisions of the working paper at the current session of the Committee. It also expressed its aspiration that the paragraphs of the proposal might become specific paragraphs of the Committee's report.

270. As regards the chapeau, the sponsor delegation advised the Working Group that the reference in the chapeau to General Assembly resolution 54/106 of 9 December 1999 should be changed to resolution 55/156 of 12 December 2000. In relation to paragraph (a), the sponsor delegation recalled past instances of underutilization by the Special Committee of conference resources at its disposal and observed that the main purpose of the paragraph was to ensure that the Committee would continue to strive to make the best use of the conference resources; paragraph (b) would encourage delegations to submit proposals as far in advance as possible and in the form of an action-oriented text; paragraph (c) was intended to ensure that there was no duplication and repetition of discussions in other forums; paragraph (d) dealt with the idea of a preliminary evaluation of proposals on new topics as to their necessity and appropriateness; paragraph (e) proffered a mechanism which would enable the Committee to decide whether it intended to continue the discussion on proposals after holding a fairly comprehensive exchange of views on them; and finally, paragraph (f) dealt with the question of the duration of Committee sessions as well as the idea of continuing to review periodically other ways and means of improving the Committee's working methods and enhancing its efficiency, including biennialization of the consideration of proposals and improving the procedure for the adoption of Committee reports.

271. In the ensuing debate, some delegations reiterated their strong support for the revised proposal and characterized it as useful, timely and pragmatic. They felt that the work of the Special Committee should be streamlined, become more focused and results-oriented. In that connection, emphasis was placed upon the importance of avoiding duplication of the work of other United Nations bodies and the need to submit

new proposals as far in advance as possible and to improve the procedure of the adoption of the reports. Those delegations were of the view that the proposed measures had received wide support in the Committee at its previous session and expressed confidence that the methods proposed would contribute to enhancing the efficiency and credibility of the Committee. Some delegations were of the opinion that the process of reviewing the working methods was in itself beneficial to streamlining the work of the Committee.

272. Other delegations questioned whether the proposed provisions had enjoyed wide support at the previous session of the Special Committee. They felt that the revised working paper required certain fine-tuning, as some of its provisions did not appear clear enough or were drafted in too rigid and negative terms. In that regard, the preference was expressed, by way of general comment, that the language of certain provisions should be significantly improved by recasting them in positive terms, in line with the positive work done by the Committee since its inception more than two decades ago. Mention was made of the specific examples of the Committee's results in the recent past.

273. While generally supporting some of the proposed ideas, the view was expressed that the working methods under consideration could be deemed to apply in a broader sense to all subsidiary bodies of the General Assembly. The further view was expressed that it was important for the Organization to meet the challenge of the changing world in the new millennium, and that this premise derived from paragraph 4 of Article 1 of the Charter of the United Nations, stipulating the purpose of the Organization to be the centre for harmonizing the actions in the attainment of common ends. It was stressed that the proposed improvement in the methods should help the Special Committee in its work as a body entrusted with the consideration of the legal issues and not create unnecessary impediments, especially in the light of one of its fundamental tasks: to ensure the supremacy of law in international relations.

274. The point was made that in order to avoid duplication it would be advisable if the Committee could be apprised of the entire range of topics under discussion in other forums of the Organization, for guidance by delegations wishing to submit new proposals. In that context, the following new paragraph was proposed, for insertion as paragraph (c) (bis):

> "Whenever a new proposal is submitted to the Committee that relates to the work of other principal or subsidiary bodies of the Organization, the Secretariat should provide the Committee with information as to which organs are involved and the way in which consideration by the Committee of the new proposal could duplicate or relate to the work of those organs".

275. On the other hand, the view was also expressed that the Special Committee did not duplicate the work of other subsidiary bodies, as it was dealing with the legal aspects of issues that might be also under consideration by other bodies. However, the need for the improved coordination between the Committee and other relevant subsidiary bodies was also recognized.

276. The view was put forward that the insufficient progress in the consideration of some of the proposals currently on the Committee's agenda was attributable mostly to the lack of political will rather than to poor working methods.

277. Reference was made to the sovereign right of States to introduce proposals that they deemed necessary and appropriate. In that connection, it was observed that such proposals should be responsive to and in line with the mandate of the Committee as contained in the founding General Assembly resolution 3499 (XXX) of 15 December 1975.

278. In commenting on the general remarks on the proposal, the sponsor delegation thanked delegations for the constructive suggestions made, recalled that the Special Committee ought to consider, on a priority basis, ways and means of improving its working methods in view of General Assembly resolution 55/156 and, in response to concerns raised, observed that the proposed provisions were intended to fulfil the purpose of that resolution. The Working Group then proceeded to a first reading of the revised working paper, on a paragraph-by-paragraph basis.

Paragraph (a)

279. Some delegations proposed the deletion of the paragraph as being drafted in too general terms and containing self-evident principles that applied to all bodies of the Organization. In addition, the scope of the words "allocated conference services" was questioned. It was noted that in considering the words "best use of allocated conference services", specific features of the Committee as a body dealing with legal

matters, on the basis of consensus, should be taken into account.

280. Other delegations felt that the second sentence of the paragraph could be deleted as being superfluous. In that connection, the view was expressed that an appeal to punctuality therein was already covered by the first sentence while the requirement of reorganizing the work programme with flexibility was not necessarily relevant in the context of the words "best use of allocated conference services" contained in the first sentence. It was suggested that the latter requirement should rather be reflected in a separate paragraph. However, one delegation questioned the meaning of such a requirement.

281. On the other hand, other delegations were of the view that the paragraph as a whole was useful. It was, however, noted that the paragraph would benefit from redrafting. Suggestions were put forward to replace the word "reorganize" by the word "implement" or the word "apply", as well as to more accurately translate, in the French text, the word "punctually" and to place the paragraph between paragraphs (e) and (f).

Paragraph (b)

282. Some delegations supported the paragraph, stating that it needed certain redrafting. It was proposed that paragraphs (b) and (c) should be merged and that the words "are encouraged" should be replaced by the words "are required". Some delegations questioned the meaning of the words "an action-oriented text" and felt that they might be deemed too restrictive. They suggested inserting the words "when appropriate" or the words "to the extent possible" at the end of the paragraph.

Paragraph (c)

283. Doubts were expressed concerning the desirability of the paragraph. The point was made that even though it might by desirable to avoid duplication or repetition, it would not be appropriate to create a sort of supervisory role for the Special Committee in that area.

284. However, other delegations supported the thrust of the paragraph and called for drafting improvements. A suggestion was made that a reference to the mandate of the Committee should be included in the paragraph and, to that end, it was proposed that the relevant provisions of General Assembly resolution 3499 (XXX) should be reflected therein. Some delegations also stressed the importance of reflecting in the text the need for coordination of the Committee's work with other bodies. In that regard, the following wording was proposed: "delegations wishing to submit a proposal should bear in mind the mandate of the Special Committee and, to the extent feasible, the work being done by other bodies on the same subject".

Paragraph (d)

285. Concern was voiced that the mechanism envisaged in the paragraph for the preliminary evaluation of the necessity and appropriateness of a proposal on a new topic might act as a barrier to introducing new proposals and infringe upon the sovereign equality of States. The view was also expressed that the paragraph might be superfluous since the mere compliance by a sponsor delegation with the requirements of the preceding paragraph (c) would signify that proposals were necessary and appropriate. According to that view, the paragraph should be deleted.

286. Other delegations suggested revising the paragraph to clarify the meaning and the mechanism of the preliminary evaluation of proposals. It was noted that a mechanism might in fact cause repetition of discussions on the same topic in the Special Committee. A suggestion was made to reflect the idea that the Committee would refer to the preliminary evaluation mechanism only if the proposal appeared to be unnecessary or inappropriate. Some delegations queried the interrelation of paragraphs (d) and (e).

287. Some other delegations supported the thrust of the paragraph as establishing a non-decision-making mechanism that would give the sponsor delegation an opportunity to receive the preliminary views of other delegations on its proposal. They stressed the relevance of paragraphs (c), (d) and (e) as separate paragraphs.

Paragraph (e)

288. A suggestion was made that the paragraph should be deleted since it was up to a sponsor delegation to evaluate the usefulness and feasibility of its proposals. It was stressed in that connection that the mechanism envisaged in the paragraph might lead to deadlocks in the Special Committee in view of the current practice of adopting decisions by consensus. That practice, it was said, should be preserved.

289. Other delegations supported the thrust of the paragraph and suggested that it should be amended to achieve a balance between the interests of States and the concerns of the Special Committee. It was proposed that the text should reflect the possibility for the Committee to decide, inter alia, on the postponement of discussions on the item. The further suggestion was made that the words "whether it intends to" should be replaced by the words "whether it is appropriate to".

Paragraph (f)

290. As regards the first sentence of the paragraph, while some delegations favoured an extension of the duration of sessions of the Special Committee, others felt that the duration should rather be shortened or remain the same as at present. The latter approach, it was said, would require the rationalization of the Committee's work. In that regard, the view was expressed that the Committee might limit the number of items on its agenda at each particular session, postponing discussions on certain topics with a view to focusing on more urgent ones.

291. Some delegations objected to some of the ideas reflected in the second sentence of the paragraph, in particular to the requirement of periodical reviews of ways and means of improving the working methods and to a modification in the procedure for adopting the Special Committee's report. Concern was voiced in this regard that the adoption of such ideas might hamper the substantive work of the Committee.

292. Other delegations, while finding the paragraph acceptable as a whole, wished to reserve their judgement, stating that the final wording of the paragraph would depend on the agreement reached by delegations with respect to the preceding paragraphs (c), (d) and (e).

293. Commenting on the exchange of views held, the sponsor delegation expressed its appreciation for the observations and suggestions made and stated that it would consult with the Bureau and interested delegations concerning the future of the working paper, taking into account the observations and suggestions of the delegations made at the current session.

B. Identification of new subjects

294. During the general exchange of views held at the 236th meeting, concern was voiced regarding the large number of items on the agenda of the Committee. In that connection, the view was expressed that new subjects should be inscribed with caution. It was suggested that proposals on new topics should be subjected to a preliminary exchange of views. On the other hand, it was noted that such an approach might infringe upon a sovereign right of States to propose subjects for the consideration of the Committee.

295. In the Working Group, some delegations stressed the importance of considering this agenda item in the light of paragraph 5 of General Assembly resolution 55/156. It was noted that the efficiency of the Special Committee would depend on its work programme rather than on its working methods. It was also suggested that the item "Identification of new subjects" could be the first item to be examined at the next session of the Special Committee.

296. Some delegations reiterated their views that caution should be exercised with respect to inscribing new items on the Special Committee's agenda, and stressed the need for the Committee to focus on the current agenda items with a view to achieving practical results. The point was made that the broad support of delegations should be a precondition for adding new items to the agenda.

297. The suggestion was made that the consideration of questions related to the rationalization of the work of the General Assembly and its subsidiary bodies should be considered as a possible new topic for the Special Committee. In that connection, the point was made that the Secretariat could be assigned the task of providing the Committee with information on the methods utilized by other bodies of the Organization and identifying methods that could be applied effectively to the Committee.

298. The following topics were also proposed for inclusion in a possible middle-term programme of the Committee: "Basic conditions of 'provisional measures' under Article 40 of the Charter employed by the Security Council"; "Clarification of the term 'threat to international peace and security'"; "Ways and means to overcome negative consequences of globalization and ensure the supremacy of law in international relations"; and "Applicability of the Charter provisions to the concept of 'humanitarian intervention'".

299. As regards the first topic listed in paragraph 298 above, i.e., application of "provisional measures" under Article 40 of the Charter, there was broad support for

the idea that it could be considered by the Special Committee after its completion of the consideration of its current agenda items. In that context, the view was expressed that, under the Charter, the Security Council was not obliged to apply "provisional measures" before imposing sanctions.

300. As regards the second topic listed in paragraph 298 above, some delegations shared the view that it might be useful to clarify the term "threat to international peace and security". However, while some delegations were not convinced that the Special Committee was the appropriate forum for an undertaking of such an academic nature, other delegations felt that the Committee could perform the task.

301. It was also suggested in that regard that the Committee could examine the role and scope of the competence of the Security Council under the relevant provisions of the Charter. The point was made, however, that it was up to the principal organs of the Organization to interpret the provisions of the Charter relating to their mandate.

302. As to the third topic, "Ways and means to overcome negative consequences of globalization and ensure the supremacy of law in international relations", the sponsor delegation referred to the regrettable effects of globalization, which in its view justified the consideration of the topic from the perspective of international law. The view was expressed, however, that a discussion on the consequences of globalization did not seem to be within the confines of the Special Committee's mandate and should instead be discussed at plenary meetings of the General Assembly.

303. As to the fourth topic, "Applicability of the Charter provisions to the concept of 'humanitarian intervention'", some delegations felt that discussion on that topic would not yield any practical results in the Special Committee owing to political and other considerations. Other delegations viewed more favourably the possible incorporation of the topic in the Committee's agenda.

304. The point was also made that the Committee should consider including in its agenda some topics discussed in the Sixth Committee during the United Nations Decade of International Law.

C. Assistance to working groups on the revitalization of the work of the United Nations and coordination between the Special Committee and other working groups dealing with the reform of the Organization

305. The suggestion was put forward that at its next session the Committee should start considering concrete ways of coordinating its work with other working groups dealing with the revitalization and the reform of the Organization. That proposal received the support of some delegations. It was stated that such coordination would eventually contribute to revitalizing and reforming the Organization. A view was also expressed that, in support of enhancing coordination between and among subsidiary bodies, efforts should be undertaken by the Special Committee to coordinate the discussions with other bodies dealing with the same issue such as Security Council reform, which was covered by the Open-ended Working Group on equitable representation.

306. The view was also expressed that, in line with paragraph 5 of General Assembly resolution 55/156, a recommendation to the General Assembly could be worked out encouraging the working groups of the latter to seek, if so they needed, the legal assistance of the Special Committee on matters dealing with the reform of the Organization.

307. In the light of the consideration of the subject "Assistance to working groups on the revitalization of the work of the United Nations and coordination between the Special Committee and other working groups dealing with the reform of the Organization", the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization recommends to the General Assembly to express the readiness of the Special Committee to provide, within its mandate, such assistance as may be sought at the request of other subsidiary bodies of the General Assembly in relation to any issues before them.

Notes

[1] *Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33* (A/36/33), para. 7.

[2] Ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33), paras. 50-97.

[3] Ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 45.

[4] Ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1), para. 58.

[5] Ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 73.

[6] Ibid., para. 84.

[7] Ibid., para. 99.

[8] Ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1), para. 101.

[9] Ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 105.

[10] Ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1), para. 107.

[11] Ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33), paras. 163-193.

[12] Ibid., para. 194.

[13] A/AC.182/L.100/Rev.1; see *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 33* (A/55/33), para. 52.

[14] S/1999/92, sect. I, para. 1.

[15] S/2000/319.

[16] E/C.12/1997/8.

[17] A/55/305-S/2000/809, para. 64 (d).

[18] See *Certain Expenses of the United Nations (Article 17, paragraph 2 of the Charter), advisory opinion of 20 July 1962, ICJ Reports 1962*, p. 155.

[19] A/AC.182/L.89/Add.2 and Corr.1; see *Official Records of the General Assembly, Fifty-third Session, Supplement No. 33* (A/53/33), para. 73.

[20] General Assembly resolution 55/2.

[21] Security Council resolution 1318 (2000).

[22] See A/55/305-S/2000/809.

[23] See S/PRST/2001/3.

[24] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 1* (A/55/1), chap. I.

[25] See Security Council resolution 1327 (2000), annex, sect. II.

[26] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 33* (A/55/33), para. 110.

[27] See *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 33* (A/47/33); ibid., *Forty-eighth Session, Supplement No. 33* (A/48/33); ibid., *Forty-ninth Session, Supplement No. 33* (A/49/33); ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1); ibid., *Fifty-third Session, Supplement No. 33* (A/53/33); ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33).

[28] General Assembly resolution 55/2.

[29] *Official Records of the General Assembly, Fifty-third Session, Supplement No. 33* (A/53/33), para. 84. See also ibid., *Fifty-second Session, Supplement No. 33* and corrigendum (A/52/33 and Corr.1), para. 59.

[30] Ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33).

[31] Ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 98.

[32] Ibid., *Fifty-fourth Session, Supplement No. 33* and corrigendum (A/54/33 and Corr.1), para. 101.

[33] Ibid., paras. 89-104, and ibid., *Fifty-fifth Session, Supplement No. 33* (A/55/33), paras. 124 and 125.

[34] General Assembly resolution 52/2.

[35] Security Council resolution 1317 (2000), annex.

[36] General Assembly resolution 37/10, annex.

[37] General Assembly resolution 43/51, annex.

[38] General Assembly resolution 46/59, annex.

[39] General Assembly resolution 49/57, annex.

[40] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 1* (A/55/1). See also the report of the Secretary-General to the Millennium Assembly of the United Nations (A/54/2000).

[41] OLA/COD/2394.

[42] A/AC.182/2000/INF/2.

[43] Ibid.

[44] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 33* (A/55/33).

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